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ABSTRACT

A collection of material documenting the establishment of the National Institute of Education includes congressional testimony, House and Senate versions of the bill, amendments to the law, messages from the president, and committee reports. (MLF)

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EDUCATION & WELFARE
NATIONAL INSTITUTE OF
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* Statement by Elliot Richardson in favor of an NIE, 3/17/71.
* Statement by Sidney Marland in favor of an NIE, 3/17/71.

House Version

* H.R. 7248, Title XIV as reported to the floor 10/8/71 by the Committee on Education and Labor; no known changes on the floor with respect to this title.
* House Report No. 92-554; Committee on Education and Labor, 10/8/71.

Senate Version

* S. 659, Title III: excerpts from the Committee report showing the effect of the title on P.L. 90-247, Title IV, known as the "General Education Provisions"; no known changes on the floor with respect to the S. 659 title.
* Senate Report No. 92-346; Committee on Labor and Public Welfare, 8/3/71.
* Senate Report No. 92-604; Committee on Labor and Public Welfare, 2/7/72.

Conference (Final Public Law)

* P.L. 92nd Congress, S. 659), Title III which amends P.L. 90-247, Title IV, known as the "General Education Provisions Act."
* Senate Report No. 92-798; Committee of Conference, 5/22/72.
* House Report No. 92-1085; Committee of Conference, is identical except for the introduction to Senate Report above.
* Presidential Statement, 6/23/72, from Weekly Compilation of Presidential Documents: Vol. 8, No. 26 (1972).

Congressional Record (S. 659)

* Volume 117 (1971):
  August 4-6 considered and passed the Senate.
  November 3 & 4 considered and passed the House, amended, in lieu of H.R. 7248.
* Volume 118 (1972):
  February 22-25, 28&29, and March 1 Senate agreed to House Amendment with amendments.
  March 8 House disagreed to Senate amendments and requested a conference.
  May 23 & 24 Senate agreed to conference report.
  June 8 House agreed to conference report.

Marland Confirmation

* Senate Executive Report No. 92-39 on the Nomination of Sidney P. Marland, Jr., 10/14/72.

Miscellaneous

Oversight Hearing on National Institute of Education

Administration Bill

92D CONGRESS
1ST SESSION

S. 434

IN THE SENATE OF THE UNITED STATES

JANUARY 29 (legislative day, JANUARY 26), 1971

MR. PROUTY (for himself, Mr. DOMINICK, Mr. GRIFFIN, Mr. JAVITS, Mr. PACKWOOD, Mr. SAXBE, Mr. SCHWEIKER, and Mr. SCOTT) introduced the following bill; which was read twice and referred to the Committee on Labor and Public Welfare

A BILL

To establish a National Institute of Education, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Institute of Education Act".

FINDINGS AND DECLARATION OF POLICY

SEC. 2. The Congress hereby declares it to be the policy of the United States to provide to every person an equal opportunity to receive an education of high quality regardless of his race, color, religion, sex, national origin, or economic status. Although the American educational system has

pursued this objective, it has not attained it. Inequalities of opportunity to receive high quality education remain pronounced. To achieve equality will require far more dependable knowledge about the processes of learning and education than now exists or can be expected from present research and experimentation in this field. While the direction of th education system remains primarily the responsibility of State and local governments, the Federal Government has a clear responsibility to provide leadership in the conduct and support of scientific inquiry into the educational process. The purpose of this Act is to establish a National Institute of Education to conduct and support educational research, and disseminate educational research findings throughout the Nation.

ESTABLISHMENT OF NATIONAL INSTITUTE OF EDUCATION

SEC. 3. (a) There is established in the Department of Health, Education, and Welfare a National Institute of Education (hereinafter referred to as the "Institute"). The Institute shall be headed by a Director who shall be appointed by the President with the advice and consent of the Senate. The Director shall perform such duties as are prescribed by the Secretary of Health, Education, and Welfare (hereinafter referred to as the "Secretary").

(b) Section 5316 of title 5, United States Code, re-

lating to positions in level V of the Executive Schedule, is amended by adding the following paragraph at the end thereof: "Director, National Institute of Education, Department of Health, Education, and Welfare."

FUNCTIONS OF THE INSTITUTE

SEC. 4. The Secretary, through the Institute, shall conduct educational research; collect and disseminate the findings of educational research; train individuals in educational research; assist and foster such research, collection, dissemination, or training through grants, or technical assistance to, or jointly financed cooperative arrangements with, public or private organizations, institutions, agencies, or individuals; promote the coordination of such research and research support within the Federal Government; and may construct or provide (by grant or otherwise) for such facilities as he determines may be required to accomplish such purposes. As used in this Act the term "educational research" includes research, planning, surveys, evaluations, investigations, experiments, developments, and demonstrations in the field of education.

EMPLOYMENT OF PERSONNEL

SEC. 5. The Secretary may appoint and compensate without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and chapter 51 and subchapter III of chapter 53 of such title,

relating to classification and general schedule rates, such technical and professional personnel as he deems necessary to accomplish the functions of the Institute.

NATIONAL ADVISORY COUNCIL ON EDUCATIONAL RESEARCH AND DEVELOPMENT

SEC. 6. (a) The President shall appoint a National Advisory Council on Educational Research and Development which shall—

(1) review and advise the Secretary and the Director on the status of educational research in the United States, and present to the Secretary such recommendations as it may deem appropriate for the strengthening of such research and the improvement of methods of collecting and disseminating the findings of educational research;

(2) advise the Secretary and the Director of the Institute on the development of programs to be carried out by the Institute and on matters of general policy arising in the administration of this Act;

(3) conduct such studies as may be necessary to fulfill its functions under this section; and

(4) prepare an annual report to the Secretary on the current status and needs of educational research in the United States, which the Secretary shall transmit to

the President with such recommendations as he may make.

(b) The Council shall be appointed by the President without regard to the civil service laws and shall consist of fifteen members apppointed for terms of three years; except that (1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and (2) the terms of office of the members first taking office shall begin upon enactment of the Act, and shall expire as designated at the time of appointment, five at the end of three years, five at the end of two years, and five at the end of the first year. One of such members shall be designated by the President as Chairman. Members of the Council who are not regular full-time employees of the United States shall, while serving on the business of the Council, be entitled to receive compensation at rates to be determined by the Secretary, but not exceeding the per diem equivalent for GS–18 for each day so engaged, including traveltime and, while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently. The Director of the Institute shall also serve on the Council ex officio.

(c) The Secretary shall provide to the Council such professional, clerical, and other assistance as may be required to carry out its functions.

(d) The Council is authorized, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and general schedule pay rates, to employ and fix the compensation of such personnel as may be necessary to carry out its functions. The Council is further authorized to obtain services in accordance with the provisions of section 3109 of title 5, United States Code, and it may enter into contracts for the conduct of studies and other activities necessary to the discharge of its duties.

GENERAL PROVISIONS

SEC. 7. (a) In administering the provisions of this Act, the Secretary is authorized to utilize the services and facilities of any agency of the Federal Government and of any other public or nonprofit private agency or institution, in accordance with agreements between the Secretary and the head thereof, on a reimbursable basis or otherwise.

(b) Payments under this Act to any individual or to any organization, institution, or agency may be made in installments, and in advance or by way of reimbursement,

with necessary adjustments on account of overpayments or underpayments.

(c) The Secretary is authorized to accept gifts to the Institute and to apply them to carry out his functions under this Act; and is similarly authorized to accept voluntary and uncompensated services, notwithstanding the provisions of section 3679(b) of the Revised Statutes (31 U.S.C. 665(b)).

(d) Funds available under this Act shall be available for transfer to any other Federal department or agency (including constituent agencies of the Department of Health, Education, and Welfare) for use (in accordance with an interagency agreement) by such agency (alone or in combination with funds of that agency) for purposes for which such transferred funds could be otherwise expended by the Secretary under this Act, and the Secretary is likewise authorized to accept and expend funds of any other Federal agency for use under this Act.

(e) All laborers and mechanics employed by contractors or subcontractors on all construction projects assisted under this Act shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5). The Secretary of Labor shall have with respect to the labor

standards specified in this section the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. 133z–15) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276(c)).

APPROPRIATIONS AUTHORIZED

SEC. 8. There are authorized to be appropriated for the fiscal year ending June 30, 1972, and for each fiscal year thereafter, such sums as may be necessary to carry out this Act, which shall remain available until expended.

Brademas Bill

92D CONGRESS
1ST SESSION

H. R. 33 (also H.R. 3606)

IN THE HOUSE OF REPRESENTATIVES

JANUARY 22, 1971

Mr. BRADEMAS (for himself, Mr. REID of New York, Mr. PERKINS, and Mr. QUIE) introduced the following bill; which was referred to the Committee on Education and Labor

A BILL

To establish a National Institute of Education, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Institute of Education Act".

FINDINGS AND DECLARATION OF POLICY

SEC. 2. The Congress hereby declares it to be the policy of the United States to provide equality of educational opportunity to all persons regardless of race, color, religion, sex, national origin, or social class. Although the American educational system has pursued this objective, it has not attained it. Inequalities of opportunity remain pronounced. To achieve

equality will require far more dependable knowledge about the processes of learning and education than now exists or can be expected from present research and experimentation in this field. While the direction of the education system remains primarily the responsibility of State and local governments, the Federal Government has a clear responsibility to provide leadership in the conduct and support of scientific inquiry into the educational process. The purpose of this Act is to establish a National Institute of Education to conduct and support educational research, and disseminate educational research findings throughout the Nation.

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(b) Section 5316 of title 5, United States Code, relating to positions in level V of the Executive Schedule, is amended by adding the following paragraph at the end thereof:

"(130) Director, National Institute of Education, Department of Health, Education, and Welfare."

FUNCTIONS OF THE INSTITUTE

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EMPLOYMENT OF PERSONNEL

SEC. 5. The Secretary may appoint and compensate without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and chapter 51 and subchapter III of chapter 53 of such title, relating to classification and general schedule rates, such technical and professional personnel as he deems necessary to accomplish the functions of the Institute.

NATIONAL ADVISORY COUNCIL ON EDUCATIONAL RESEARCH

SEC. 6. (a) The President shall appoint a National Advisory Council on Educational Research which shall—

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(2) advise the Secretary and the Director of the Institute on matters of general policy arising in the administration of this Act;

(3) conduct such studies as may be necessary to fulfill its functions under this section; and

(4) prepare an annual report to the Secretary on the current status and needs of educational research in the United States, which the Secretary shall transmit to the President with such recommendations as he may make.

(b) The Council shall be appointed by the President without regard to the civil service laws and shall consist of fifteen members appointed for terms of three years; except that (1) any member appointed to fill a vacancy occurring

prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and (2) the terms of office of the members first taking office shall begin on the date of enactment of this Act, and shall expire as designated at the time of appointment, five at the end of three years, five at the end of two years, and five at the end of the first year. One of such members shall be designated by the President as Chairman. Members of the Council who are not regular full-time employees of the United States shall, while serving on the business of the Council, be entitled to receive compensation at rates to be determined by the Secretary, but not exceeding the per diem equivalent for GS–18 for each day so engaged, including traveltime and, while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

(c) The Secretary shall provide to the Council such professional, clerical, and other assistance as may be required to carry out its functions.

(d) The Council is authorized, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53

of such title relating to classification and General Schedule pay rates, to employ and fix the compensation of such personnel as may be necessary to carry out its functions. The Council is further authorized to obtain services in accordance with the provisions of section 3109 of title 5, United States Code, and it may enter into contracts for the conduct of studies and other activities necessary to the discharge of its duties.

GENERAL PROVISIONS

SEC. 7. (a) In administering the provisions of this Act, the Secretary is authorized to utilize the services and facilities of any agency of the Federal Government and of any other public or nonprofit private agency or institution, in accordance with agreements between the Secretary and the head thereof, on a reimbursable basis or otherwise.

(b) Payments under this Act to any individual or to any organization, institution, or agency may be made in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments.

(c) The Secretary is authorized to accept gifts to the Institute and to apply them to carry out his functions under this Act, and is similarly authorized to accept voluntary and uncompensated services, notwithstanding the provisions of section 3679(b) of the Revised Statutes (31 U.S.C. 665 (b)).

(d) Funds available under this Act shall be available for transfer to any other Federal department or agency (including constituent agencies of the Department of Health, Education, and Welfare) for use (in accordance with an interagency agreement) by such agency (alone or in combination with funds of that agency) for purposes for which such transferred funds could be otherwise expended by the Secretary under this Act, and the Secretary is likewise authorized to accept and expend funds of any other Federal agency for use under this Act.

(e) All laborers and mechanics employed by contractors or subcontractors on all construction projects assisted under this Act shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5). The Secretary of Labor shall have with respect to the labor standards specified in this section the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. 133z-15) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276 (c)).

APPROPRIATIONS AUTHORIZED

SEC. 8. There are authorized to be appropriated for the fiscal year ending June 30, 1972, and for each fiscal year thereafter, such sums as may be necessary to carry out this Act, which shall remain available until expended.

MESSAGE ON EDUCATION REFORM

By President Richard M. Nixon

TO THE CONGRESS OF THE UNITED STATES:

American education is in urgent need of reform.

A nation justly proud of the dedicated efforts of its millions of teachers and educators must join them in a searching re-examination of our entire approach to learning.

We must stop thinking of primary and secondary education as the school system alone—when we now have reason to believe that young people may be learning much more **outside** school than they learn in school.

We must stop imagining that the Federal Government had a cohesive education policy during a period of explosive expansion—when our Federal education programs are largely fragmented and disjointed, and too often administered in a way that frustrates local and private efforts.

We must stop letting wishes color our judgments about the educational effectiveness of many special compensatory programs, when—despite some dramatic and encouraging exceptions—there is growing evidence that most of them are not yet measurably improving the success of poor children in school.

We must stop pretending that we understand the mystery of the learning process, or that we are significantly applying science and technology to the techniques of teaching—when we spend less than one-half of one percent of our educational budget on research, compared with 5% of our health budget and 10% of defense.

We must stop congratulating ourselves for spending nearly as much money on education as does the entire rest of the world—$65 billion a year on all levels—when we are not getting as much as we should out of the dollars we spend.

A new reality in American education can mark the beginning of an era of reform and progress for those who teach and those who learn. Our schools have served us nobly for centuries; to carry that tradition forward, the decade of the 1970s calls for thoughtful redirection to improve our ability to make up for environmental deficiencies among the poor; for long-range provisions for financial support of schools; for more efficient use of the dollars spent on education; for structural reforms to accommodate new discoveries; and for the enhancement of learning before and beyond the school.

When educators, school boards and government officials alike admit that we have a great deal to learn about the way we teach, we will begin to climb the up staircase toward genuine reform.

Therefore, **I propose that the Congress create a National Institute of Education** as a focus for educational research and experimentation in the United States. When fully developed, the Institute would be an important element in the nation's educational system, overseeing the annual expenditure of as much as a quarter of a billion dollars.

I am establishing a President's Commission on School Finance to help States and communities to analyze the

fiscal plight of their public and non-public schools. We must make the nation aware of the dilemmas our schools face, new methods of organization and finance must be found, and public and non-public schools should together begin to chart the fiscal course of their educational planning for the Seventies.

I propose new steps to help States and communities to achieve the Right to Read for every young American. I will shortly request that funds totalling $200 million be devoted to this objective during fiscal 1971. The basic ability to read is a right that should be denied to no one, and the pleasures found in books and libraries should be available to all.

I propose that the Department of Health, Education and Welfare and the Office of Economic Opportunity begin now to establish a network of child development projects to improve our programs devoted to the first 5 years of life. In fiscal 1971, a minimum of $52 million will be provided for this purpose.

New Measurements of Achievement

What makes a "good" school? The old answer was a school that maintained high standards of plant and equipment; that had a reasonable number of children per classroom; whose teachers had good college and often graduate training; a school that kept up to date with new curriculum developments, and was alert to new techniques in instruction. This was a fair enough definition so long as it was assumed that there was a direct connection between these "school characteristics" and the actual amount of learning that takes place in a school.

Years of educational research, culminating in the Equal Opportunity Survey of 1966 have, however, demonstrated that this direct, uncomplicated relationship does not exist.

Apart from the general public interest in providing teachers an honorable and well paid professional career, there is only one important question to be asked about education: **What do the children learn?**

Unfortunately, it is simply not possible to make any confident deduction from school characteristics as to what will be happening to the children in any particular school. Fine new buildings alone do not predict high achievement. Pupil-teacher ratios may not make as much difference as we used to think. Expensive equipment may not make as much difference as its salesmen would have us believe.

And yet we know that something does make a difference.

The **outcome** of schooling—what children learn—is profoundly different for different groups of children and different parts of the country. Although we do not seem to understand just what it is in one school or school system that produces a different outcome from another, one conclusion is inescapable: **We do not yet have equal educational opportunity in America.**

The purpose of the National Institute of Education would be to begin the serious, systematic search for new knowledge needed to make educational opportunity truly equal.

The corresponding need in the school systems of the nation is to begin the responsible, open measurement of how well the educational process is working. It matters very little how much a school building costs; it matters a great deal how much a child in that building learns. An important beginning in measuring the end result of education has already been made through the National Assessment of Educational Progress being conducted by the Education Commission of the States.

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To achieve this fundamental reform it will be necessary to develop broader and more sensitive measurements of learning than we now have.

The National Institute of Education would take the lead in developing these new measurements of educational output. In doing so it should pay as much heed to what are called the "immeasurables" of schooling (largely because no one has yet learned to measure them) such as responsibility, wit and humanity as it does to verbal and mathematical achievement.

In developing these new measurements, we will want to begin by comparing the actual educational effectiveness of schools in similar economic and geographic circumstances. We will want to be alert to the fact that in our present educational system we will often find our most devoted, most talented, hardest working teachers in those very schools where the general level of achievement is lowest. They are often there because their commitment to their profession sends them where the demands upon their profession are the greatest.

From these considerations we derive another new concept: **accountability.** School administrators and school teachers alike are responsible for their performance, and it is in their interest as well as in the interests of their pupils that they be held accountable. Success should be measured not by some fixed national norm, but rather by the results achieved in relation to the actual situation of the particular school and the particular set of pupils.

For years the fear of "national standards" has been one of the bugaboos of education. There has never been any serious effort to impose national standards on educational programs, and if we act wisely in this generation we can be reasonably confident that no such effort will arise in future generations. The problem is that in opposing some mythical threat of "national standards" what

we have too often been doing is avoiding accountability for our own local performance. We have, as a nation, too long avoided thinking of the **productivity** of schools.

This is a mistake because it undermines the principle of local control of education. Ironic though it is, the avoidance of accountability is the single most serious threat to a continued, and even more pluralistic educational system. Unless the local community can obtain dependable measures of just how well its school system is performing for its children, the demand for national standards will become even greater and in the end almost certainly will prevail. When local officials do not respond to a real local need, the search begins for a level of officialdom that will do so, and all too often in the past this search has ended in Washington.

I am determined to see to it that the flow of power in education goes toward, and not away from, the local community. The diversity and freedom of education in this nation, founded on local administration and State responsibility, must prevail.

The National Institute of Education

As the first step toward reform, we need a coherent approach to research and experimentation. Local schools need an objective national body to evaluate new departures in teaching that are being conducted here and abroad and a means of disseminating information about projects that show promise.

The National Institute of Education would be located in the Department of Health, Education, and Welfare under the Assistant Secretary for Education, with a permanent staff of outstanding scholars from such disciplines as psychology, biology and the social sciences, as well as education.

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While it would conduct basic and applied educational research itself, the National Institute of Education would conduct a major portion of its research by contract with universities, non-profit institutions and other organizations. Ultimately, related research activities of the Office of Education would be transferred to the Institute.

It would have a National Advisory Council of distinguished scientists, educators and laymen to ensure that educational research in the Institute achieves a high level of sophistication, rigor and efficiency.

The Institute would set priorities for research and experimentation projects and vigorously monitor the work of its contractors to ensure a useful research product.

It would develop criteria and measures for enabling localities to assess educational achievement and for evaluating particular educational programs, and would provide technical assistance to State and local agencies seeking to evaluate their own programs.

It would also link the educational research and experimentation of other Federal agencies—the Office of Economic Opportunity, the Department of Labor, the Department of Defense, the National Science Foundation and others—to the attainment of particular national educational goals.

Here are a few of the areas the National Institute of Education would explore:

(a) **Compensatory Education.** The most glaring shortcoming in American education today continues to be the lag in essential learning skills in large numbers of children of poor families.

In the last decade, the Government launched a series of ambitious, idealistic, and costly programs for the disadvantaged, based on the assumption that extra resources would equalize learning opportunity and eventually help eliminate poverty.

In some instances, such programs have dramatically improved children's educational achievement. In many cases, the programs have provided important auxiliary services such as medical care and improved nutrition. They may also have helped prevent some children from falling even further behind.

However, the best available evidence indicates that most of the compensatory education programs have not measurably helped poor children catch up.

Recent findings on the two largest such programs are particularly disturbing. We now spend more than $1 billion a year for educational programs run under Title I of the Elementary and Secondary Education Act. Most of these have stressed the teaching of reading, but before-and-after tests suggest that only 19% of the children in such programs improve their reading significantly; 13% appear to fall behind more than expected; and more than two-thirds of the children remain unaffected—that is, they continue to fall behind. In our Headstart program, where so much hope is invested, we find that youngsters enrolled only for the summer achieve almost no gains, and the gains of those in the program for a full year are soon matched by their non-Headstart classmates from similarly poor backgrounds.

Thoughtful men recognize the limitations of such measurements and would not conclude that the programs thus assessed are without value. It may be necessary to wait many years before the full impact of such programs on the lives of poor youngsters can be ascertained. But as we continue to conduct special compensatory education for the disadvantaged, we must recognize that our present knowledge about how to overcome poor backgrounds is so limited that major expansion of such programs could not be confidently based on their results.

While our understanding of what works in compensa-

tory education is still inadequate, we do know that the social and economic environment which surrounds a child at home and outside of school probably has more effect on what he learns than the quality of the school he now attends. Therefore, the major expansion of income support proposed in the Family Assistance Plan should also have an important educational effect.

The first order of business of the National Institute of Education would be to determine what is needed—inside and outside of school—to make our compensatory education effort successful. To help get this process under way now, I have also reactivated the National Advisory Council on the Education of Disadvantaged Children, and have appointed a slate of distinguished educators who will make recommendations and help monitor our efforts in this field. The nation cannot afford defeat in this area.

(b) **The Right to Read.** In September, the nation's chief education officer, Dr. James E. Allen, Jr., proclaimed the Right to Read as a goal for the 1970's. I endorse this goal.

Achievement of the Right to Read will require a national effort to develop new curricula and to better apply the many methods and programs that already exist. Where we do not know how to solve a reading problem, the National Institute of Education would undertake the research. But often we find that someone does know how, and the Institute would make that knowledge available in forms that can be adopted by local schools.

In some critical areas, we already know how to work toward achieving the Right to Read for our nation's children. In the coming year, I will ask the Congress to appropriate substantial resources for two programs that can most readily serve to achieve this new commitment—the program that assists school libraries to obtain books, and the program that provides funds through the states for special education improvement projects.

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I will shortly ask Congress to increase the funds for these two programs—funds which are available to public and non-public schools alike—to $200 million. I shall direct the Commissioner of Education to work with State and local officials to assist them in using these programs to teach children to read. This is a purpose which I believe to be of the very highest priority for our schools, and a right which, with the cooperation of the nation's educators, can be achieved for every young American.

(c) **Television and Learning.** Most education takes place outside the school. Although we often mistakenly equate "schooling" with "learning," we should begin to pay far greater attention to what youngsters learn during the more than three quarters of their time they spend elsewhere.

In the last 20 years, there has been a revolution in the way most boys and girls—and their parents—occupy themselves. The average high school student, for example, by the time he graduates, has spent 11,000 hours in school—and 15,000 hours watching television.

Our goal must be to increase the use of the television medium and other technological advances to stimulate the desire to learn and to help teach.

The technology is here, but we have not yet learned how to employ it to our full advantage. How can local school systems extend and support their curricula working with local television stations? How can new techniques of programed learning be applied so as to make each television set an effective teaching aid? How can television, audio-visual aids, the telephone, and the availability of computer libraries be combined to form a learning unit in the home, revolutionizing "homework" by turning a chore into an adventure in learning?

The National Institute of Education would examine questions such as these, especially in that vital area where

out-of-school activities can combine with modern technology and public policy to enhance our children's education. It will work in concert with other organizations and agencies dedicated to the educational uses of television technology. Prominent among these is the Corporation for Public Broadcasting, which the Congress established in 1967 as a private entity to channel and shape the use of Federal funds in support of public broadcasting. With its authorization for Federal funds expiring shortly, the time has come to extend the Federal support for the Corporation to stimulate its continuing growth and improvement. Accordingly, the Secretary of Health, Education, and Welfare is today transmitting a bill to authorize funds for the Corporation for a 3-year period. This will permit the Corporation to grow in the orderly and planned way so important to a new undertaking. A portion of the annual Federal funding would be based on matching the dollars raised by the Corporation from non-Federal sources. The Congress did not intend that the Corporation derive its funds solely from the Federal Government. Therefore, increased contributions from private sources should be stimulated during the early years through the incentive offered in the matching process.

(d) **Experimental Schools.** As a bridge between basic educational research and actual school practices, I consider the Experimental Schools program to be highly important. Accordingly, I renew my request to the Congress to appropriate the full amount asked—$25 million in fiscal year 1971.

The Secretary of Health, Education, and Welfare is today transmitting a bill to establish the National Institute of Education. We have taken a similar approach in biomedical research through the National Institutes of Health; this effort in education would be an historic step forward.

FOR RELEASE UPON DELIVERY

Statement by
Honorable Elliot L. Richardson
Secretary of Health, Education, and Welfare
Before the
Select Subcommittee on Education
Committee on Education and Labor
House of Representatives
Wednesday, March 17, 1971
2:00 p.m. EST

The Secretary is accompanied by:

Honorable Sidney P. Marland, Jr., U.S. Commissioner of Education

Dr. John R. Ottina, Deputy Commissioner for Development

Mr. Christopher T. Cross, Acting Deputy Assistant Secretary for Legislation

Mr. Chairman and Members of the Subcommittee:

Last March, President Nixon called for the creation of the National Institute of Education as the driving force in a national effort of educational revitalization. The President declared, "As a first step toward reform, we need a coherent approach to research and experimentation....the purpose of the National Institute of Education would be to begin the serious, systematic search for new knowledge needed to make educational opportunity truly equal."

For the schools that have served so well for so long have come into days of serious difficulties--difficulties no one has yet found tools to resolve. The dimensions of this crisis in educational experience are truly sobering.

We have poured billions of Federal dollars into education, only to find that the situation seems more critical than before.

Each year a heartbreaking number of disadvantaged young people leave school without the basic skills needed to fill any but the most menial jobs. There is no assurance that their younger brothers and sisters will do better.

Older people with years of productive labor find themselves in a market which no longer needs their skills and with no adequate system for re-education and renewal.

Too often creativity and curiosity are stifled, persistence and motivation lost because we do not know how to build a learning environment which responds to the kaleidescopic affects of modern society.

The schools are attacked as a symbol of repression rather than honored as places which serve the student's hopes. Violence against teachers and against other students reveals an emotional wilderness in the minds of our young. Incidents of violence initiate spirals of security measures which turn the school from a community center into a day-time prison.

Even the best of schools don't prepare our children to deal constructively with an ever changing world. We have not yet found ways to teach coping with change. Or humanity. Or ingenuity.

In the face of these difficulties, we can be sure of one thing: the old answers no longer work. Where once we put faith in the power of a new school building, an extra teacher, a new textbook; we now know that such "improvements" just don't seem to make much difference. Where once we supposed that careful research would show us the way, we now know that what is proven successful in the laboratory may still prove a failure in the classroom.

Research into the ways that people learn and live, then, is especially critical and especially difficult in this era of change and uncertainty. Traditional techniques and forms will no longer serve; little has yet been found to replace them.

Promising ideas do abound, but we are coming to appreciate the difficulty of turning them to practice. Complex ideas cannot be marketed as easily as we market television sets. We know that an innovation may fail because we haven't shown teachers how to use it successfully. We know that an innovation may fail because teachers, administrators, or even parents distrust it or dislike it. We know that an innovation may fail because it involves a

mismatch with some other part of school--it doesn't build on a child's previous experience, or it doesn't prepare him for subsequent experience, or it is incompatible with other present demands on his time or on school resources.

As a result, fresh and far-reaching educational solutions demand both new knowledge that can be used to shape those solutions and new ways to put those solutions into practice. These tasks represent educational research and development's most challenging agenda.

Together with a bipartisan group of Congressmen, we have called for the National Institute of Education to provide fresh leadership in carrying out these tasks. Cosponsored by Congressman Brademas as the subcommittee's chairman, Congressman Quie and 19 other distinguished members, H.R. 3606 would establish the new agency in HEW as a visible and vigorous focus for educational research and development. The agency would be separate from the Office of Education, although responsibility for it would be delegated to the Commissioner. Designed to attract scholars of outstanding competence, the NIE would be headed by a Presidentially appointed director with special authority to hire and compensate technical and professional staff exempt from certain civil service requirements.

Astute observers have been calling attention to the need for a special educational research and development institution since 1958, when a National Academy of Sciences committee first proposed the agency. The President's Science Advisory Committee repeated the suggestion in 1964. More recently, both the Commission on Instructional Technology and David Krathwohl, former President of the American Educational Research Association, have come forward with similar ideas.

Through all these suggestions echoes a common conviction that a new institution would exert greater leadership toward strong educational research and development--and thus toward revitalizing education in America.

For despite our belief that research and development can be the key, we have not supported the major research and development effort needed to tackle our most stubborn and complex educational problems.

In contrast to research and development in other areas of national importance, educational research and development has remained a "poor cousin" in size, in resources, in scope, in organization.

--In 1968, the man-years devoted to research, development, and innovation in education totaled just 5,390; in health, 59,400.

--Only about 10,000 researchers work on education, while the number of researchers working on health is three to five times that figure.

--Since 1950, the Nation has invested less than $1 billion in educational research and development; in that time, $7 billion has been devoted to agriculture research and $14 billion to health research. Private industry's research and development investments have been even higher--the electrical equipment industry, for example, spends $4.2 billion a year on research and development; the aircraft industry spends $5.6 billion.

--Research and development receives only .3 percent of educational expenditures--and 4.6 percent of health expenditures.

I mention research in health, agriculture, and industry, not because their tasks are identical to those of education research--they are not--nor because resources in these areas are sufficient to their needs: certainly there is always a need for new thrusts in these areas of knowledge. Of

course, research in these fields has had the advantage of a strong base in the hard sciences and more easily observable results than educational research. But the mission of educational research and development is certainly as challenging and complex as that of research in health, in agriculture, or industry. And education research and development clearly lags several orders of magnitude behind.

In addition to problems of size and insufficient resources, educational research and development has not attracted enough top quality researchers from a broad range of disciplines; it has been approached mainly from the standpoint of educational psychology, testing, administration, and the like. And research has rested on a narrow institutional base--most of it has been conducted on university campuses. Industry, government, and other institutions carry on very little work in educational research and development.

Finally, we have not established a visible, high level national institution charged with educational research and development management. In part, this failure reflects a general lack of interest in educational research because of its relative weakness, and the lack of organizational prestige helps to perpetuate that weakness. In other fields, high level agencies devoted solely to research and development have proven extremely successful. In health, for example, nationally visible research efforts have benefitted from the establishment of research and development units separate from health operating functions. In contrast, the National Center for Educational Research and Development has remained a component of the Office of Education. As such, it has not been able to escape some measure of bureaucratic anonymity. While the top Federal management position ranks at a level IV in health

research and a level V in agricultural research, NCERD's placement in the Office of Education has kept its head at a GS-17 level.

Creation of a National Institute of Education would address directly this last problem, and it would address indirectly educational research and development's other weak points. The National Institute of Education would bring greater stature to research and development in education, organize interdisciplinary teams to seek radically new approaches to solve educational problems, and invite the commitment of more resources.

Establishing a new agency will not by itself end all the difficulties facing educational research and development. But a separate research and development institute with special characteristics is needed, if we are to make room for major progress. The changes feasible within existing institutional arrangements simply will not lead to a quantum leap toward excellence in educational experimentation and innovation.

Creating a new agency can, for example, affect the size, scope, and vitality of the educational research community. A National Institute of Education will spark interest in educational research generally. Since education research has traditionally lacked prestige in the academic community, many top scholars have been reluctant to enter it. As education research gains in prestige, outstanding scholars from a wide range of disciplines will become interested in the field.

The National Institute of Education's prominence would be maintained by several key characteristics. First, as I have mentioned, the agency itself would be a distinct unit outside the Office of Education, allowing it visibility as a separate entity. Second, its director, as an Executive

Level V, would be a high level appointee. This ranking is a necessity if we are to recruit a director with extensive experience and the highest national stature, and to compensate him appropriately. The director must command enough respect to draw the very best academicians, educational practitioners, public administrators and so on to work in NIE. Third, the special personnel authority would allow the agency enough high level positions and freedom to bring in outstanding scholars. Their presence, both permanent and short-term, will build an institutional reputation and a high degree of confidence.

Beyond strengthening educational research and development itself, the new Institute would organize people, energies and resources more effectively to conceive fresh approaches to education. A "critical mass" of expertise from a variety of fields would be marshalled. The National Institute of Education's personnel system will allow special flexibility to gather the best minds and put them to work together. And as a new agency, the National Institute of Education can develop its own operational patterns best suited to a research and development agency.

Finally, the NIE could stimulate the increases in funds for research that we have not yet been able to achieve. Perhaps because of its immaturity as a field, education research has not received the public support needed to secure substantially increased resources. If the agency does indeed succeed in boosting public interest in educational research and development, a willingness to increase public investment should follow.

I would like to emphasize the President's commitment to a sound and systematic growth of Federal expenditures for educational research and development under the NIE. We would expect NIE's first-year budget to fall within a range of $150 to $200 million. An estimated $120 to $140 million of this represents projected levels of programs to be shifted from the Office of

Education. After the first year, we would expect to see NIE's budget rising steadily to a level of $310 to $420 million in Fiscal Year 1977.

In summary, let me reiterate that renewing education's promise requires new tools and techniques developed by a vigorous research and development system. The system of educational research and development itself needs strengthening if it is to match that challenge. Prominent researchers from many disciplines must be drawn to the task, funds must be marshalled to devise imaginative and radically new approaches.

As the next step toward these ends, we must mold a new agency capable of providing energetic national leadership--a National Institute of Education. I urge you to join in support of this move by acting favorably on the bill before you at the earliest possible date.

Mr. Chairman, I will now turn the discussion over to Dr. Marland. Although for the reasons I've mentioned we feel it crucial that the National Institute of Education be organizationally distinct from the Office of Education, I also wish to make Dr. Marland responsible for all major efforts in education, including the National Institute of Education. He speaks today in the broad role of the Administration's chief education officer.

FOR RELEASE UPON DELIVERY

Statement by
Honorable Sidney P. Marland, Jr.
U.S. Commissioner of Education
Before the
Select Subcommittee on Education
Committee on Education and Labor
House of Representatives
Wednesday, March 17, 1971
2:00 p.m. EST

Thank you Mr. Secretary.

Mr. Chairman and Members of the Subcommittee:

I would like to begin by noting that we are in the midst of comprehensive planning for research and development. Ultimately, this complex process will produce a detailed blueprint for the NIE--its organization, staffing, and program. In developing this blueprint, we are working with many expert and knowledgeable individuals through the country. In the initial stage of the planning process, Dr. Roger Levien of the Rand Corporation was asked to direct a study of major issues involved in creating a new educational research and development agency. That study has produced a number of options and recommendations for consideration--concerning major educational problems NIE should tackle, organizational development to deal with these problems, projected funding levels, and so on.

We are now considering the range of options, including those suggested in Dr. Levien's extremely useful document. We are forming an internal planning group, which will analyze these options and devise a detailed first-year agenda for the agency's program and organization. Since this work is still in progress, I hope the Committee will understand that much of our thinking must still be considered tentative. With that caveat, let me share with you our general views on how the NIE would operate.

FUNCTIONS

First let me talk about the Institute's functions. The NIE would pursue several broad aims. Its first aim, claiming the lion's share of the agency's budget, would be to mobilize the ablest scholars and direct their talents to comprehensive research and development programs to find solutions to

education's most serious problems. Some of these solutions will build on the best current techniques--many will probe radically new approaches to learning. All will lean heavily on development and on the invention of effective means of translating ideas into materials and practices workable--and working--in the field. In any case, the Institute's independent, creative atmosphere and flexible organization will enable its staff to take a hard look at common assumptions and hallowed traditions in the profession of teaching.

Teams of people with different expertise--research and development personnel, educators, teachers, public officials, etc.--would be organized around basic problems. They would plan research and development programs designed to yield new knowledge, materials, and methods--coordinated to provide powerful leverage on each problem. For example, finding successful approaches to educating the poor might mean supporting a range of projects from basic language studies to designing alternatives to formal schooling for alienated ghetto teenagers.

Another broad aim of the NIE would be to reinforce the scientific and technological foundation of education, strengthening the role of pure research techniques. We need to understand better how physical and biological processes affect learning, and we must deepen our scientific understanding of behavioral and social phenomena. The forces of science must be brought to bear on educational issues; scientists in all disciplines must be encouraged to join the effort. As Secretary Richardson has already noted, the Institute would be particularly well suited to attracting these researchers.

Finally, the Institute would seek to strengthen the educator's capacities in his various roles: as teacher, as chief architect of educational form and content, as a public official responsible to his community. In furthering this cause, NIE might support projects to devise self-evaluation techniques for teachers, to study and reinforce local processes of curriculum development, and to test various accountability mechanisms. It would support projects designed to broaden the concept of teachers to include students themselves, older students, paraprofessionals, parents, and volunteers.

ORGANIZATION AND STAFF

NIE's success in pursuing these aims will depend in part on the way staff are organized to work on them. We are now working to design an organization which would best serve NIE's purposes. Dr. Levien has proposed a "matrix" model of organization, allowing staff to move between permanent organizational bases and temporary project task forces. His plan conceives of three constituent organizations. One would manage problem-solving programs, one would manage programs to strengthen the scientific base of education and educational practice generally, the third would evaluate the state of education and of public education policies. This is one possible model: we are currently evaluating it by examining its effectiveness in situations where it has actually been applied. At the same time, we are looking at alternative designs. For instance, a "functional" model would move staff among tasks associated with different stages of research and development, from basic research to application in the field. Other models might organize staff around educational objectives, age levels, and so on.

However staff are organized, certain personnel patterns characteristic of leading research and development agencies will emerge. These distinctive patterns will be made possible in large part by the bill's authority to hire and compensate technical and professional staff exempt from civil service classification and compensation regulations. This authority, I should stress, will only apply when there is a specific reason to use it--hence most of the staff will be hired under the civil service system. The special authority would not be likely to be used for those engaged in support functions for the agency: budget, personnel, contracts, and so on.

The concept of exemption authority builds upon the experience of other successful research and development institutions, such as NSF and NIH. As these agencies have found, drawing the highest quality staff for research and development requires staffing patterns and compensation levels specially adapted to the career patterns and professional traditions of the scholarly community. Exemption permits, for example, a system of short-term, noncareer appointments. Distinguished academicians and educators whose permanent career commitment is to a university, school system or industry could spend a year or so at the NIE. Those with special expertise could join the staff for even shorter periods to work on a single project. In addition, the authority would permit streamlined hiring procedures particularly suited for short-term, high-level personnel.

RELATIONSHIP TO OTHER AGENCIES AND CLIENTELE

This brings us to NIE's relationship with other agencies and organizations, for the Institute must maintain an active and continuing interchange with a variety of these.

First, NIE's relationship to the Office of Education must be a particularly close one. NIE must be responsive to the role of OE as the latter serves American education broadly. The Office of Education, on the other hand, must be in a position to help formulate the questions NIE would address. Further, OE must support the delivery system for promoting implementation of the practical results of education research and development in the field. The Commissioner of Education would be responsible for both agencies; Secretary Richardson would delegate responsibility for the NIE to him. I can say for myself that I would expect to use this strategic position as forcefully as possible to ensure that the two agencies complement each other. In addition, there must be a variety of formal and informal mechanisms for easy interchange between OE and NIE staff. I would expect that Office of Education officials would serve on NIE advisory groups, and vice versa. OE staff could be drafted to serve on a short-term basis on NIE's problem-solving groups. Permanent NIE staff might be required to take temporary assignments in the Office of Education as part of their development.

NIE would assume responsibility for most activities now conducted by the National Center for Educational Research and Development. NIE would assume responsibility, for example, for programs in basic research, ongoing development activities, the research and development centers and regional education laboratories, research training, and construction of research and development facilities. The transition can be orderly and systematic, but it must be carefully planned; preparation would extend through Fiscal Year 1972. These activities currently carried on by NCERD would very likely be organized differently from the present organization. In addition, OE would retain its responsibility for evaluation and policy-oriented research relating to

OE programs, and statistical gathering services. While NIE would be charged with designing new delivery systems for research products, the Office of Education would oversee demonstration and dissemination activities, and support whatever new systems the NIE might develop.

We look to NIE to promote the coordination of education and related research and development activites supported by the various Federal agencies. A number of agencies support research and development activities relating to education as part of their own particular missions, but there has been little effort to coordinate them. NIE would act as a clearinghouse for information on relevant programs. The agency would provide an intellectual meeting ground where personnel of various government agencies concerned with educational research and development can think together about educational problems, and thus avoid duplication among their own programs.

The Institute would also complement the proposed National Foundation on Higher Education. The Foundation would support exemplary operating programs in post-secondary education. While NIE works to devise and test new educational methods, the Foundation will encourage the demonstration and adoption of promising practices in higher education already known. NIE will deal with broadly based problems and practices, many running throughout all levels of education; the Foundation will focus on needs and issues particular to higher education. The same coordination mechanisms used to link NIE to the Office of Education would be used with the Foundation: advisory councils, staff exchanges, direction from the Commissioner, and so on.

NIE will need a constant and lively interchange with people in a variety of non-Federal agencies and organizations. State agency personnel, local

school administrators, independent scholars, school board members, teachers, private and informal education organizations, schools of education, colleges and universities, scientific and professional societies, students--all these and more must be continuously involved in the workings of NIE.

The National Advisory Council on Education Research and Development will be one mechanism for involving outstanding individuals engaged in research and development, education, public affairs. The Council would have 15 members serving staggered 3-year terms. Other mechanisms would be developed to foster a continuous flow of information to NIE, as well as to facilitate the flow of information from NIE through the Office of Education and other channels to the classrooms of the Nation. The exchange of personnel working at the agency on short-term projects will also strengthen ties between NIE and the field.

In concluding my formal testimony here, Mr. Chairman, I would note that I have dealt briefly with a number of basic issues involved in creating a new agency: its aims, its staffing patterns, its relationship to current programs and other agencies. In all of these areas, our thinking is necessarily exploratory.

Designing this new agency is a complex task. If the NIE is to fulfill its promise, it will call for the ablest organizational talents we can assemble. The basic characteristics of the proposed new agency--its distinct identity, its stature, its flexibility--create the potential for bold national leadership toward superior educational research and development. We are shaking off the traditions and customs of historic government agencies as we construct this new instrument for the improvement of learning. In our planning, we are searching for a design that best capitalizes upon the experiences of like agencies and developing criteria to use in evaluating NIE's

effectiveness on an ongoing basis. A National Institute for Education promises new scholarly leadership and excellence in educational research and development. I join Secretary Richardson in urging your support for this new effort.

Thank you.

House Bill (as reported to floor)

Union Calendar No. 260

92D CONGRESS
1ST SESSION

H. R. 7248

[Report No. 92–554]

IN THE HOUSE OF REPRESENTATIVES

APRIL 6, 1971

MRS. GREEN of Oregon (for herself, Mr. PERKINS, Mr. BURTON, Mr. DENT, Mr. DANIELS of New Jersey, Mr. PUCINSKI, Mr. BRADEMAS, and Mr. SCHEUER) introduced the following bill; which was referred to the Committee on Education and Labor

OCTOBER 8, 1971

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To amend and extend the Higher Education Act of 1965 and other Acts dealing with higher education.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

~~That this Act may be cited as the "Higher Education Act of 1971."~~

~~TITLE I—EXTENSION OF COMMUNITY SERVICE AND CONTINUING EDUCATION PROGRAMS~~

~~SEC. 101. Section 101 of the Higher Education Act of 1965 is amended by striking out "and" and by inserting after "June 30, 1971" the following: ", and such sums as~~

~~may be necessary for each of the five succeeding fiscal years~~".

~~TITLE II—EXTENSION AND AMENDMENT OF PROGRAMS OF COLLEGE LIBRARY ASSISTANCE AND LIBRARY TRAINING AND RESEARCH~~

~~SEC. 201. (a) Section 201 of the Higher Education Act of 1965 is amended by striking out "and" after "1970," and inserting after "1971," the following: "and such sums as may be necessary for each succeeding fiscal year ending prior to July 1, 1976"~~.

~~(b) Section 202 (a) of such Act is amended by inserting before "and (2)" the following: "except that under special and unusual circumstances the Commissioner is authorized to waive this requirement,"~~.

~~(c) Section 202 (b) of such Act is amended by inserting immediately preceding the semicolon at the end thereof the following: ", except that under special and unusual circumstances the Commissioner is authorized to waive this requirement."~~

~~(d) Section 203 (a) of such Act is amended by striking out "$10" and inserting in lieu thereof "$20"~~.

~~(e) Section 204 (a) (2) of such Act is amended by striking out "and" immediately preceding "(C)", and inserting before the period at the end of the first sentence the~~

effectiveness in serving the objectives established in education legislation.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 1402. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this title."

TITLE XIV—NATIONAL INSTITUTE OF EDUCATION

SHORT TITLE

SEC. 1401. This title may be cited as the "National Institute of Education Act".

FINDINGS AND DECLARATION OF POLICY

SEC. 1402. (a)(1) The Congress hereby declares it to be the policy of the United States to provide to every person an equal opportunity to receive an education of high quality regardless of his race, color, religion, sex, national origin, or social class. Although the American educational system has pursued this objective, it has not attained it. Inequalities of opportunity to receive high quality education remain pronounced. To achieve equality will require far more dependable knowledge about the processes of learning and education than now exists or can be expected from present research and experimentation in this field. While the direction of the education system remains primarily the responsibility of State and local governments, the Federal

Government has a clear responsibility to provide leadership in the conduct and support of scientific inquiry into the educational process.

(2) The Congress further declares it to be the policy of the United States to—

(i) help to solve or to alleviate the problems of, and promote the reform and renewal of American education;

(ii) advance the practice of education, as an art, science, and profession;

(iii) strengthen the scientific and technological foundations of education; and

(iv) build an effective educational research and development system.

(b) The purpose of this title is to establish a National Institute of Education to conduct and support educational research and development and disseminate education research and development findings throughout the Nation.

ESTABLISHMENT OF A NATIONAL INSTITUTE OF EDUCATION

SEC. 1403. There is established in the Department of Health, Education, and Welfare a National Institute of Education (hereinafter referred to as the "Institute"). The Institute shall be headed by a Director who shall be appointed by the President by and with the advice and consent of the Senate. The Director shall perform such duties as are pre-

scribed by the Secretary of Health, Education, and Welfare (hereinafter referred to as the "Secretary") and shall be responsible to such Secretary and not to or through any other officer of that Department. The Director shall not delegate any of his functions to any other officer who is not directly responsible to him. The Director shall receive compensation at the rate prescribed for the Commissioner of Education.

FUNCTIONS OF THE INSTITUTE

SEC. 1404. (a) The Director, through the Institute, shall conduct educational research; collect and disseminate the findings of educational research; train individuals in educational research; assist and foster such research, collection, dissemination, or training through grants, or technical assistance to, or jointly financed cooperative arrangements with, public or private organizations, institutions, agencies, or individuals; promote the coordination of such research and research support within the Federal Government; and may construct or provide (by grant or otherwise) for such facilities as he determines may be required to accomplish such purposes. As used in this title the term "educational research" includes but is not limited to research (basic and applied), planning, surveys, evaluations, investigations, experiments, developments, and demonstrations.

(b) Not less than 90 per centum of the funds appropriated under section 1409 for a fiscal year shall be expended

to carry out this title through grants to or contracts with qualified public or private agencies or individuals.

EMPLOYMENT OF PERSONNEL

SEC. 1405. The Secretary may appoint and fix the compensation of such officers and employees as may be necessary to carry out purposes of this title. Such officers and employees shall be appointed in accordance with chapter 51 of title 5, United States Code, except that (1) to the extent that the Secretary deems such action necessary to recruit men and women of exceptional talent he may establish the entrance grade for personnel at a level up to two grades higher than the grade level provided for by such personnel under the General Schedule established by such title, and fix their compensation accordingly, and (2) to the extent the Secretary deems such action necessary to the discharge of his responsibilities, he may appoint personnel of the Institute without regard to the civil service or classification laws: Provided, That personnel appointed under this clause do not exceed at any one time one-third of the number of full-time, regular technical or professional employees of the Institute.

NATIONAL ADVISORY COUNCIL ON EDUCATIONAL RESEARCH AND DEVELOPMENT

SEC. 1406(a). The President shall appoint a National Advisory Council on Educational Research and Development which shall—

(1) review and advise the Secretary and the Director on the status of education, educational research, and the prospective educational needs of our society;

(2) advise the Secretary and the Director of the Institute on development of programs to be carried out by the Institute and on matters of general policy arising in the administration of this title;

(3) present to the Secretary and the Director such recommendations as it may deem appropriate for the strengthening of educational research, the improvement of methods of collecting and disseminating the findings of educational research and of ensuring the implementation of educational renewal and reform based upon the findings of educational research;

(4) conduct such studies as may be necessary to fulfill its functions under this section;

(5) prepare an annual report to the Secretary on the current status and needs of educational research in the United States;

(6) submit an annual report to the President on the activities of the Institute, and on education and educational research in general, (A) which shall include such recommendations and comments as the Council may deem appropriate, and (B) shall be submitted to the Congress not later than March 31 of each year; and

intermittently. The Director of the Institute and the Commissioner of Education shall serve on the Council ex officio.

note voting

(c) The Secretary shall provide to the Council such professional, clerical, and other assistance as may be required to carry out its functions.

(d) The President may also appoint other Federal officials as non-voting ex officio members.

note non-voting

(e) The Council is authorized, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and general schedule pay rates, to employ and fix the compensation of such personnel as may be necessary to carry out its functions.

(f) The Council is further authorized to obtain services in accordance with the provisions of section 3109 of title 5, United States Code, and it may enter into contracts for the conduct of studies and other activities necessary to the discharge of its duties.

GENERAL PROVISIONS

SEC. 1407. (a) The Director, in order to carry out the purposes of this title, is authorized—

(1) to make, promulgate, issue, rescind and amend rules and regulations governing the manner of operation of the Institute;

(2) to accept unconditional gifts or donations of services, money or property, real, personal or mixed, tangible or intangible;

(3) without regard to section 3648 of the Revised Statutes of the United States (31 U.S.C. 529), to enter into and perform such contracts, leases, cooperative agreements or other transactions as may be necessary for the conduct of the Institute's work and on such terms as he may deem appropriate with any agency or instrumentality of the United States, or with any State, Territory or possession, or with any political subdivision thereof, or with any international organization or agency, or with any firm, association, corporation or educational institution, or with any person, without regard to statutory provisions prohibiting payment of compensation to aliens;

(4) to acquire (by purchase, lease, condemnation or otherwise), construct, improve, repair, operate and maintain laboratories, research and testing facilities, computing devices, communications networks and machinery and such other real and personal property or interest therein as he deems necessary;

(5) to acquire (by purchase, lease, condemnation or otherwise), and to lease to others or to sell such property in accordance with the provisions of the Federal Prop-

erty and Administrative Services Act, patents, copyrights, computing programs, theatrical and broadcast performance rights or any form of property whatsoever or any rights thereunder; and

(6) to use the services, computation capacity, communications networks, equipment, personnel and facilities of Federal and other agencies with their consent, with or without reimbursement. Each department and agency of the Federal Government shall cooperate fully with the Director in making its services, equipment, personnel and facilities available to the Institute.

(b) All laborers and mechanics employed by contractors or subcontractors on all construction projects assisted under this title shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a–276a–5). The Secretary of Labor shall have with respect to the labor standards specified in this section the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. 133z–15) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276(c)).

JOINT FUNDING WAIVER AUTHORITY

SEC. 1408. Where funds are advanced for a single project by more than one Federal agency for the purposes of this

title, the National Institute of Education may act for all in administering the funds advanced and any such agency may waive any technical grant or contract requirement which is inconsistent with the similar requirements of the National Institute or which the National Institute does not impose.

APPROPRIATIONS AUTHORIZED

SEC. 1409. There are authorized to be appropriated for the fiscal year 1972, and for each fiscal year thereafter, such sums as may be necessary to carry out this title, which shall remain available until expended.

TITLE XV—ETHNIC HERITAGE STUDIES

SEC. 1501. The Higher Education Act of 1965 is amended by inserting after title XIV the following new title:

"TITLE XV—ETHNIC HERITAGE STUDIES

"STATEMENT OF POLICY

"SEC. 1501. In recognition of the heterogeneous composition of the Nation and of the fact that in a multiethnic society a greater understanding of the contributions of one's own heritage and those of one's fellow citizens can contribute to a more harmonious, patriotic, and committed populace, and in recognition of the principle that all students in the elementary and secondary schools of the Nation should have an opportunity to learn about the differing and unique contributions to the national heritage made by each ethnic group, it is the purpose of this title to provide assistance designed to afford to students opportunities to learn about

92D CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
1st Session } { No. 92-554

HIGHER EDUCATION ACT OF 1971

OCTOBER 8, 1971.—Committed to the Committee on the Whole House on the State of the Union and ordered to be printed

Mr. PERKINS, from the Committee on Education and Labor, submitted the following

REPORT

together with

SUPPLEMENTAL, ADDITIONAL, AND INDIVIDUAL VIEWS

[To accompany H.R. 7248]

The Committee on Education and Labor, to whom was referred the bill (H.R. 7248) to amend and extend the Higher Education Act of 1965 and other Acts dealing with higher education, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert the matter that appears in italic type in the reported bill.

The full committee ordered H.R. 7248 reported on September 30, 1971, by a record vote of 35 to 1.

BACKGROUND

During the 91st Congress, the Committee on Education and Labor, between December 16, 1969 and July 16, 1970 held thirty-four days of hearings on H.R. 16098 of the 91st Congress (a bill to amend the Higher Education Act of 1965, the National Defense Education Act of 1958, the Higher Education Facilities Act of 1963, the International Education Act of 1966, and for other purposes) and related bills.

Based on testimony and other evidence submitted to the Committee during the 91st Congress, a new higher education bill (H.R. 7248) was introduced in the 92nd Congress on April 6, 1971. The new bill incorporated many of the provisions proposed in the bills considered by the Committee during the 91st Congress. Between March 2, 1971 and July 23, 1971, fifteen days of hearings were held on H.R. 7248

and related bills. The Committee amendment is based on the text of H.R. 7248, and contains modifications thereof which the Committee finds justified in light of the evidence before it. Many of those modifications are drawn from the related bills considered by the Committee.

The Committee amendment also creates a National Institute of Education which has been the subject of nine days of hearings. It also authorizes an Ethnic Heritage Studies program on which ten days of hearings were held. It authorizes an Occupational Education program on which 3 days of hearings were held, including field hearings in New York and Boston. It also authorizes Youth Camp Safety legislation which has been the subject of seven days of hearings during the last three Congresses.

Testimony indicated that the higher education community is now facing extraordinary change made difficult by acute financial distress. Since World War II institutions of higher education have had to accommodate greatly increased numbers of students. They have also had to modify and innovate courses and modes of instruction in order to prepare students for life in a society itself rapidly changing in response to technological developments. Meanwhile inflation and rising costs have produced endemic deficit financing.

Institutions of higher education have sought federal assistance to enable them to meet their responsibilities to the nation. The bill, as amended by the Committee, attempts to meet that need both by extending and amending existing categorical programs and by accepting new federal roles particularly in regard to the general support of higher education institutions.

BRIEF SUMMARY OF THE MAJOR PROVISIONS OF THE BILL

Title I—Community Service and Continuing Education Programs

This title extends through fiscal year 1976 Title I of the Higher Education Act of 1965 which authorizes grants to assist institutions of higher education in helping to solve community problems through community service and continuing education programs.

Title II—College Library Programs

This title extends through fiscal year 1976 Title II of the Higher Education Act of 1965. Such title authorizes—

(1) grants to institutions of higher education for the acquisition of college library resources;

(2) grants and contracts for research and training in librarianship, and

(3) funds for the Library of Congress for cataloguing of library materials and distribution of cataloguing information.

In addition amendments made by this title:

(1) establish the eligibility of other public and private nonpront institutions furnishing library information services to institutions of higher education to receive basic and special purpose grants under this title.

(2) reserve not less than 50% of the grants made for training in librarianship to be used for maintaining fellowships and traineeships.

(3) establish grant eligibility for training in librarianship to other library and educational organizations or agencies.

(4) require the Librarian of Congress to transmit annually to Congress a report evaluating the effectiveness of the Library of Congress' acquisition and cataloguing activities.

Title III—Extension of Programs to Strengthen Developing Institutions

This title extends through fiscal year 1976 Title III of the Higher Education Act of 1965 which authorizes grants to developing institutions of higher education to enable them to strengthen their academic and administrative capacities. The title is also amended to allow professors emeritus from developing institutions to receive grants.

Title IV—Student Assistance

This title extends through fiscal year 1976 student assistance programs authorized under Title IV of the Higher Education Act 1965. The title further amends the programs in the following fashion:

PART A—EDUCATIONAL OPPORTUNITY GRANTS

(1) Increases the grant limit to $1,500 per year.

(2) Limits aggregate amount for four years to $4,000 or $5,000 for five years.

(3) Extends eligibility to five years if determination is made that an additional year of study is necessary.

(4) Requires consideration of educational expenses of all dependent children in computing family contribution.

(5) Provides that institution must exclude from consideration of family contribution, the income of parents of veterans.

(6) Makes eligible students at proprietary post-secondary schools.

(7) Consolidates Talent Search, Upward Bound and Special Services for the disadvantaged programs.

PART B—GUARANTEED STUDENT LOAN PROGRAM

(1) Removes $15,000 adjusted family income criteria for subsidized loans and substitutes an institutional decision that student is in need of loan.

(2) Increases yearly loan limit to $2,500 and raises aggregate loan limit to $10,000.

PART C—WORK-STUDY

(1) Modifies eligibility requirement for participants so as to give preference to "students with great financial need".

(2) Allows for participation of students enrolled on at least a half-time basis.

(3) Student to participate must show evidence of capability or academic or creative promise.

(4) Provides for a new program of Work-Study for Community Service Learning programs with preference given to veterans who have served in Indo-China or Korea since 1964.

PART D—COOPERATIVE EDUCATION

Authorizes demonstration grants for innovative demonstration projects in cooperative education.

PART E—AMENDMENTS TO GENERAL PROVISIONS RELATING TO STUDENT ASSISTANCE

Provides for new formula for distribution of student assistance funds and for transferability of fund between grants and work study

PART F—SECONDARY MARKET AND WAREHOUSING

Provides for the establishment of a Student Loan Marketing Association, a government sponsored private corporation, to serve as a secondary market and warehousing facility for insured student loans and provide liquidity for student loan investments.

Title V—Extension and Amendment of Education Professions Development Act

This title amends and extends through fiscal year 1976 Title V of the Higher Education Act of 1965, the Education Professions Development Act. The Education Professions Development Act authorizes the Teacher Corps and a variety of programs designed to improve the quality of teaching in elementary and secondary schools, vocational education programs, and in institutions of higher education.

The title is amended by providing for programs or projects to encourage volunteers for service as part-time tutors or full-time instructional assistants in preschool, elementary and secondary classes, especially for disadvantaged children.

Title VI—Extension or Amendments of Certain Other Provisions of Law

This title extends the following programs:

(1) The National Defense Education Act of 1958—

(*a*) Title III, Financial assistance for strengthening instrution in science, mathematics, modern foreign languages, and other critical subjects.

(*b*) Title IV, National defense fellowships.

(*c*) Title VI, Language development.

(2) The International Education Act of 1965—

(3) The Higher Education Act of 1965—

(*a*) Title VI, Financial assistance for the improvement of undergraduate instruction.

(*b*) Title VIII, Networks for knowledge.

(*c*) Title IX, Education for the public service.

(*d*) Title X, Improvement of graduate programs.

(*e*) Title XI, Law school clinical experience programs.

This title further amends Title VI of NDEA so as to authorize support of undergraduate foreign language programs and activities; and Title IV of NDEA is modified to focus the program on meeting real manpower needs in postsecondary education and to encourage especially tailored graduate programs to prepare academic leaders.

Title VII—Higher Education Facilities

Title VII extends through fiscal year 1976 the provisions of the Higher Education Facilities Act of 1963 which authorizes programs of grants and loans for the construction of academic facilities.

The title further amends the High Education Facilities Act by

(1) authorizing a new program for Federal mortgage insurance of loans for the construction of academic facilities, and

(2) authorizing the guarantee of loans for educational delivery systems.

Title VIII—General Assistance

Title VIII adds a new title, Title XII, to the Higher Education Act of 1965 establishing a program of general financial assistance to institutions of higher education. Two-thirds of the funds awarded would be determined on the basis of full-time equivalency enrollment. The remaining one-third would be distributed on a cost-of education basis related to the amount institutions receive in EOG, Work-Study, and National Defense student loan funds. A weighted factor is also included to assist small institutions. The Title also provides for a study commission to examine the crisis in postsecondary education financing and make recommendations.

Title IX—Interns for Political Leadership

This title amends Title IX of the Higher Education Act by establishing a new program under which students may serve as interns in the officers of elected officials in local and state governments and in the offices of Members of Congress.

Title X—Sex Discrimination

This title prohibits discrimination on the basis of sex in education programs or activities receiving financial support from the Federal government.

It further amends exsting law to:

(1) Remove the exemption of persons employed in educational institutions from the equal employment provisions of the Civil Rights Act.

(2) Authorize the Civil Rights Commission to investigate discrimination on the basis of sex.

(3) Eliminate the present exemption of individuals employed in executive, administrative, or professional capacity from the equal pay for equal work provisions of the Fair Labor Standards Act.

Title XI—Improvement of Mineral Conservation Education

This title adds a new Title XIII to the Higher Education Act establishing a program of mineral conservation education and authorizing support of mineral resource conservation institutes at institutions of higher education. Further establishes an advisory committee on mineral research.

Title XII

Constitutes the College of the Virgin Islands and the University of Guam as Land-Grant Colleges.

TITLE XIII—EVALUATION

This title which adds a new title XIV to the Higher Education Act of 1965, authorizes the Comptroller General, upon the request of a committee member of a committee having appropriate jurisdiction, with respect to Federal education programs, to conduct studies, review policies, and evaluate procedures and particular projects or programs.

TITLE XIV—NATIONAL INSTITUTE OF EDUCATION

This title creates a new agency in the Department of Health, Education and Welfare, the National Institute of Education. The Institute will carry on and support research and development in education.

TITLE XV—ETHNIC HERITAGE STUDIES

This title adds a new title to the Higher Education Act authorizing the Secretary of Health, Education and Welfare to make grants to institutions of higher education for developing ethnic studies curriculum materials.

TITLE XVI—OCCUPATIONAL EDUCATION

This title, known as the Occupational Education Act of 1971, provides for the establishment of a Bureau of Occupational Education in the Office of Education. It further authorizes the Commissioner to make grants to the States for the planning and administration of occupational education programs in elementary and secondary schools and in postsecondary institutions.

TITLE XVII—STATE POST-SECONDARY EDUCATION COMMISSIONS

This title authorizes grants to State Post-Secondary Education Commissions to make studies of post-secondary education in the States and to provide for State planning.

TITLE XVIII—TEMPORARY RELIEF FOR INSTITUTIONS OF HIGHER EDUCATION IN FINANCIAL DISTRESS

This title authorizes a two-year program to provide temporary relief to institutions of higher education experiencing serious financial difficulties. The Secretary of HEW is authorized to make grants for this purpose.

TITLE XIX—YOUTH CAMP SAFETY

This title establishes Federal standards for the protection and safety of youth attending day camps, resident camps and travel camps. Also provides federal assistance to the States to develop their own programs.

TITLE XX—MISCELLANEOUS

This title contains effective date provisions, amendments to treat Puerto Rico, the Virgin Islands, and Guam as States for the purposes of programs established or extended by the bill, and an amendment to provide the Commissioner with waiver authority with respect to the federal share requirements in higher education programs.

grams. The Comptroller General would report to Congress and the heads of the agencies concerned regarding the need for such contracts and their effectiveness in accomplishing the goals established by education legislation.

This new title is evidence of the Committee's concern about the effectiveness of the programs Congress has authorized, and about the value it is receiving for the considerable sums expended. It is anticipated that GAO will be called upon frequently to carry out its evaluation responsibilities. Accordingly it is estimated that the additional work-loan would require increased appropriations to GAO in the annual amount of $1 million.

TITLE XIV—THE NATIONAL INSTITUTE OF EDUCATION

On March 3, 1970, in his Message to Congress on Education Reform, President Nixon called for the creation of a National Institute of Education as a "focus for educational research and experimentation in the United States." Declaring that "American education is in urgent need of reform" and that "we are not getting as much as we should out of the dollars we spend" on education, the President called for "a searching re-examination of our entire approach to learning."

Legislation proposing the establishment of a National Institute of Education was introduced in the 91st and 92nd Congresses.

During the past two years, beginning with the introduction of the bill on March 3, 1970, the Select Subcommittee on Education of the House Committee on Education and Labor held 8 days of hearings. The Subcommittee also conducted visits to centers of educational research and development in the United States as well as in Great Britain, Franch, Norway and Poland.

Research and development in education have never received enough support to assure, in the President's words, "reform and progress for those who teach and those who learn."

As the President warned:

> We must stop pretending that we understand the mystery of the learning process, or that we are significantly applying science and technology to the techniques of teaching—when we spend less than one half of one percent of our educational budget on research, compared with 5 percent of our health budget and 10 percent of defense.

Indeed, in comparison to health research, for example, research in education has commanded meager resources and recruited but a relatively small community of scholars.

- Since 1959, the Nation has spent less than $1 billion on educational research—and $14 billion on health research.
- Today research and development receive barely 0.3 percent of the education dollar—and 4.6 percent of the health dollar.
- In 1968, the number of man-years devoted to research and development came to 5,390 in education—and 59,500 in health.
- The number of researchers working on education is only four or five thousand—and 30,000 receive support from the National Institutes of Health.

Insufficient resources and personnel have not been the only hindrances to a vigorous educational research and development effort. Education researchers have traditionally been associated with psychology, sociology, and related disciplines but relatively few have been drawn from a range of other disciplines now also understood to have particular relevance to education—physiology, chemistry, anthropology, computer sciences, statistics, to cite only several. Education research has been concentrated heavily on a few university campuses—most of it has been conducted in some 200 such institutions. Very few results have emerged from other kinds of institutions.

Another hindrance has been the lack of an adequate mechanism to enable education consumers to make effective use of new approaches emerging from our research and development efforts.

Finally, education research has lacked the leadership of a national agency with high visibility and institutional strength. The creation of a National Institute of Education would place leadership in just such an agency.

The Institute will have the authority to carry on a broad range of research and development activities at every level of education, preschool through postgraduate school, within formal institutions of learning and in non-formal learning situations.

The new agency would be placed within the Department of Health, Education and Welfare as an entity separate from the Office of Education. The distinct organizational identity of the Institute will permit it both the visibility and flexibility it requires to be effective.

The Institute will be led by a Director of the same executive level as the Commissioner of Education, to be appointed by the President and confirmed by the Senate. A National Advisory Council on Educational Research and Development, also Presidentially appointed, would bring together outstanding persons from the public and private sectors to advise the Director on Institute policy. In addition, the Council will report annually to the Secretary of the Department of Health, Education, and Welfare, the President and Congress.

The Director will have special authority to hire and compensate staff (up to one-third of the full-time, regular technical or professional employees) exempt from Civil Service classification law. This authority will permit the Institute to evolve the kind of special staffing patterns which other outstanding research and development agencies such as the National Science Foundation and the National Institutes of Health have found so successful in attracting outstanding researchers. For example, the exemption will allow distinguished scholars and researchers whose permanent career commitments are to universities or school systems to serve at the Institute on a short-term basis.

Most of the research activities now vested in the Office of Education will be transferred to the Institute. The National Institute of Education will assume responsibility for basic and applied research and development activities including, but not limited to, research and development centers; regional education laboratories; researcher training and experimental schools. The Office of Education will retain responsibility for education policy research relating to Office of Education programs, statistical gathering, some demonstration proj-

ects, and a modest share of dissemination activities serving both agencies. The Institute, however, will have principal responsibility for dissemination of the results of research.

Although the National Institute of Education would conduct a small amount of in-house research, the Committee intends that most of its work would be performed, by grant, contract or other arrangement, by other agencies, institutions and individuals.

It is anticipated that an increase in funds for educational research and development will accompany the establishment of the National Institute of Education. $90 million is now spent under the Cooperative Research Act. During the first year of operation (FY 1972), $3 million is budgeted for the planning of the Institute. In FY 1973, the first year of the Institute's full operation, the agency's budget is expected to begin at $150 million, of which $118 million represents ongoing programs and $32 million, new monies.

The creation of a National Institute of Education will:

(*a*) provide a new beginning for research and development at every level of American education, preschool through post graduate school, in formal institutions of learning and outside them.

(*b*) provide a focal point for bringing together a constituency of consumers, researchers and interested public for educational research.

(*c*) provide enough stability in research policy to make it possible to carry out plans and obtain results.

(*d*) provide visibility to the research effort.

(*e*) make possible a personnel policy such as exists at the National Institutes of Health and the National Science Foundation in order to insure the highest quality of research.

(*f*) do for education what the National Institutes of Health are doing for health—increase available resources and provide a focal point for planning and program implementation.

(*g*) increase the likelihood of getting the results of research and development into education systems.

Major provisions

Organization and Structure.—The bill in Sec. 1403 establishes a National Institute of Education to be headed by a Director who will be responsible to the Secretary of Health, Education, and Welfare and not to or through any other officer of the Department. The bill specifically provides that the Director may not delegate any of his functions to any other officer who is not directly responsible to him. The compensation of the Director is set at the rate prescribed for the Commissioner of Education.

Location.—The Committee believes that educational research in the past has too often failed to have a significant impact on educational practice. Too often educational research has not been addressed to the real problems of teaching and learning in schools, colleges, universities and other educational institutions or to learning situations of a non-formal kind. When educational research has dealt with these reali-

ties, the results have often failed to reach consumers, teachers and students in usable form.

Clearly, if educational research is to have an impact upon educational practice, the agency responsible for it must work effectively with other agencies engaged in educational programming or educational research. These include the Office of Education, the Office of Child Development, the National Institute of Child and Human Development and the National Institutes of Health, all in the Department of Health, Education and Welfare. The Committee believes, therefore, that establishment of the Institute within this Department is appropriate.

Yet it is also clear that only by separating the educational research and development effort from its present location within the Office of Education can major gains be made in strengthening the effort:

A separate research and development agency is freer to foster approaches significantly different from existing institutional patterns than is an agency closely tied to those patterns through its major support functions.

Placing research and development in a separate agency allows that agency's leadership to adjust normal administrative patterns to fit the special character of a research and development agency.

A separate research and development agency can be attractive to highly creative and independent scholars who have difficulty operating in a normal bureaucratic setting.

Creating a separate agency for research and development makes it possible to assure greater stature to its leadership than is now possible.

Creating a separate agency assures that funds will be used for research and development and not diverted to what are essentially operating projects.

Finally, establishing an educational research and development agency outside the Office of Education will attract many excellent people who have been reluctant to deal with the research and development program of the Office of Education. Office of Education research has been plagued by a negative image—for management resulting in research of poor quality and of little substance; for failure to focus on genuine problems in education; and for insensitivity to any interests but those of the established educational leadership. A new agency outside the Office of Education can develop research and development programs responsive to each of these concerns.

Educational Research

The bill also provides in Sec. 1403 that "educational research" includes but is not limited to research, planning, surveys, evaluations, investigations, experiments, developments and demonstrations in the field of education. The Committee understands "the field of education" to include, but not be limited to, teaching, learning and administration in both formal and non-formal settings at all levels from preschool through postgraduate school and including life long learning.

In the Committee's view, educational research cannot be contained within any fixed number of academic disciplines, nor can it itself be defined as a single discipline. The Committee believes that the domination of educational research in the past by persons from a small number of disciplines has been detrimental to educational research.

The Committee believes that it will take men and women from many disciplines and walks of life to do the work of the National Institute of Education.

The Director

The National Institute of Education will be headed by a Director appointed by the President with the advice and consent of the Senate. The Director will perform such duties as instructed by the Secretary of Health, Education, and Welfare and shall report to the Secretary and not to or through to any other officer of the Department of Health, Education, and Welfare. The Director shall not delegate any of his functions to any other officer who is not directly responsible to him.

The Committee considered, and rejected, the proposal that the Director report to the Secretary through the Commissioner of Education. The Committee specified that the Director shall have the same compensation as the Commissioner and report directly to the Secretary. The Committee recognized that it is essential to the effectiveness of the Institute that it not be controlled by the Office of Education or subjected to its policy pressures, and therefore concluded that the most beneficial results for American education would result from the Director and Commissioner acting in tandem, rather than as subordinate and superior.

Objectives

The National Institute of Education should have as its principal objectives the provision of equality of educational opportunity, the solution of problems of and the promotion of the reform and renewal of American education at all levels and in all settings.

Research, development and demonstration are intended to provide the basis for the achievement of these objectives and should be the major activities of the Institute. However, the Institute should also seek to stimulate the demand of state and local agencies for educational improvement and to strengthen their capacity for implementing tested innovations.

The major substantive educational problems to be addressed by the Institute should be determined by the Director in consultation with the Advisory Council and his staff. The Institute will have the substantial impact the Committee intends only if it concentrates its resources on carefully chosen problems of fundamental significance in education. In turn, the resulting programs must be properly funded and pursued to completion, whether this means a long-term or short-term commitment on the part of the Institute. The Committee be-

lieves that such an approach to research strategy should result in a balanced agenda of long-term and short-term research programs.

The quality of the program of the Institute will depend entirely on the capabilities of the research and development community in the nation. One of the primary objectives of the Institute must be to foster the continued growth of that capability. In general, this will mean supporting high quality work wherever it is found—providing it falls within the program design—and supplementing existing capacities where appropriate. It should be the policy of the Institute to encourage wherever possible, the development of institutions capable of conducting high quality educational research and development activities. For the most part, these institutions will be built from existing institutional bases; however, in some cases it may be necessary to build new entities.

The Committee recognized the necessity for creating an environment of intellectual vitality within the Institute and therefore for giving the staff an opportunity to conduct a certain amount of research themselves. We feel that in-house research should at no time comprise more than a small proportion of the total research program. The Committee thus provided that no less than 90% of funds appropriated be used through grants or contracts with qualified public or private agencies and individuals. The objection to a large in-house research program is based primarily on the observation that with a large in-house program, the natural tendency of the Institute's management would be to support that program and extramural activities related to it in preference to other more compelling alternatives.

Dissemination

The dissemination of the results of research and development in education will be one of the principal responsibilities of the Institute.

One of the most common criticisms of educational research and development has been its failure to affect educational practice, and in turn one of the reasons for this failure has been a lack of a capacity to assist consumers in putting good development effectively into practice. As President Nixon said in his March 3, 1970 Message, in justifying the need for the National Institute of Education, "Local schools need an objective national body to evaluate new departures in teaching and a means of disseminating information about projects that show promise."

There are two reasons the Institute must collect and disseminate the findings of education research as well as support such research. First, if they are to be aware of the needs of real students and real teachers and real administrators in real educational settings, researchers involved in developing new knowledge about learning must be involved with such consumers of education.

Second, the process of research and development in education is not a simple linear one, that is, a process in which basic research is fol-

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lowed by demonstration and validation and then by dissemination of a product. Rather, the process is a dynamic one in which there are constant, continuing interchanges back and forth between and among: (1) basic researchers; (2) those who demonstrate the results; and (3) the consumers, those who apply the results in teaching and learning situations.

The Institute must, therefore, assume responsibility not only for the development of educational materials and practices but also for their dissemination to students, teachers, administrators and other potential users. The Institute will validate as ready for use innovations that are based either on the work the Institute carries out or supports or on work coming from other sources. In this process the Institute must make very effort to enable educational consumers to learn of new approaches to learning and teaching. Hence, dissemination into practice will be one of the most important tasks of the Institute.

The Committee carefully considered, and rejected, the view of some authorities that the principal responsibility for the dissemination of research should be retained within the Office of Education. The results of this present arrangement have been so meager and disappointing as to warrant no continuation of it. The Committee has learned that the Office of Education nonetheless intends to expand its dissemination efforts through the initiation of "centers for educational renewal", yet the Committee finds no statutory authority for such a program; nor does it have before it legislative proposals requesting such authority. It is the Committee's intention that the results of research and development conducted and supported by the National Institute of Education, as well as other research results, be disseminated into the schools, colleges, universities and other educational institutions of the Nation as well as into non-formal learning settings. The Committee believes that the best way to assure the achievement of this objective is to provide that the responsibility for the dissemination of research and development findings shall be placed in the National Institute of Education, as authorized in this bill. The duplication of such authority by the Office of Education is not authorized.

Transfer of Functions From Office of Education

Essentially all Office of Education responsibilities concerned with systematic efforts to gain new knowledge relating to education or to develop and explore new approaches to education will be transferred to the Institute. These responsibilities include, but are not limited to, basic and applied research, development and experimentation. In addition, current functions aimed at strengthening the research and development system, such as researcher training, support of the Regional Educational Laboratories, and the Experimental Schools Program, will all become functions of the National Institute of Education. Those Office of Education programs which aim at disseminating the results of educational research into practice will also become the responsibility of the Institute.

A few research functions, however, will remain in the Office of Education. Because the Bureau for Education of the Handicapped has been uniquely successful in linking its Research and Development program to its training and services programs and in putting Research and Development findings into practice, a number of research programs within the Bureau will remain part of the Office of Education.

Aside from Bureau for Education for the Handicapped programs, the policy research centers and studies regularly conducted for Office of Education program planning purposes, the Office of Education will not maintain a research capability.

The following table lists programs the Administration has advised the Committee it intends to transfer to the National Institute of Education.

TABLE OF RESEARCH AND DEVELOPMENT ITEMS TO BE TRANSFERRED TO THE NATIONAL INSTITUTE OF EDUCATION

FY 1972 Appropriation (in thousands of dollars)

$7,000 RESEARCH
- 3,000 Basic Research
- 2,000 Regional Research
- 2,000 National Reading Council*

$11,000 DEVELOPMENT
- 5,000 Sesame Street*
- 1,000 WICHE
- 5,000 Development Models

$33,000 INSTITUTIONAL SUPPORT
- 23,800 11 Regional Laboratories
- 8,000 8 Research and Development Centers
- 1,200 7 Early Childhood Education Centers

$2,750 LIBRARIES AND TECHNOLOGY

$3,500 RESEARCHER TRAINING
- 1,000 Ongoing Fellowships for Graduate Training
- 1,250 Consortia
- 1,250 Training Institutes, Material Development, Training Minorities, Manpower Analysis and Planning

$15,000 EXPERIMENTAL SCHOOLS

$1,000 PLANING AND EVALUATION

$150 DISSEMINATION RESEARCH

$40,000 VOCATIONAL RESEARCH
- 18,000 Grants to States
- 18,000 Special Projects
- 4,000 Curriculum Development

$5,150 EDUCATION OF THE HANDICAPPED
- 5,000 Research and Demonstration
- 150 Physical Education

$118,550,000 TOTAL

*Project to remain in Office of Education, funded unded under other authority.

COORDINATION BETWEEN THE INSTITUTE AND OTHER AGENCIES

The success of the Institute will depend in large part upon its capacity for cooperation with other agencies and institutions, governmental and non-governmental, engaged in aspects of educational research or the operation of education programs. The bill, therefore, provides that the Director of the Institute may:

1. Enter into cooperative arrangements with other agencies of the Federal government, other governmental units, non-governmental organizations or institutions, or persons;

2. Use the services, equipment, personnel and facilities of Federal or other agencies, with their consent; and

3. Through waiver authority, administer projects jointly funded by more than one Federal agency.

One of the most important of the other agencies with which the Institute must develop cooperative relationships is the Office of Education in the Department of Health, Education, and Welfare. Although the Office of Education and the Institute are agencies with different functions, clearly it is essential that the two agencies work cooperatively. The Institute must be aware of the responsibilities of the Office of Education for operating educational assistance programs, while the Office of Education must keep abreast of those findings of the Institute which have implications for the effectiveness of the program it administers.

Cooperation between the Institute and the Office of Education can come through both formal and informal means. The presence of both the Commissioner and the Director on the National Advisory Council for Educational Research and Development as voting ex officio members will bring them into formal relation with each other, as will the fact that both report to the Secretary of Health, Education, and Welfare. The opportunities for informal contacts between the Director and the Commissioner and their staffs should deepen each officer's understanding of the other's needs and views. Joint funding of projects of interest to both agencies will be yet another way of developing cooperative relationships.

The Director will be expected to develop and maintain close relationships with other agencies in the Department of Health, Education, and Welfare which are concerned with education or educational research, including the Office of Child Development, the National Institute of Child and Human Development, the National Institute of Mental Health and the National Institutes of Health.

The Committee also expects that the Director will seek to develop and maintain links with other departments and agencies of the Federal government engaged in educational research or in operating educational programs.

Personnel

The quality of the programs of the Institute will depend entirely on the capabilities of the research and development community in the Nation and on the ability of the Institute to attract highly talented people to its staff. Outstanding persons will come if they perceive that the results of the effort will be significant. The position of the Insti-

tute's Director in the Federal hierarchy, the exemption of certain staff from Civil Service requirements, and the intellectual environment are all designed to maximize the possibility of research of high quality.

Section 105 of the bill authorizes the Secretary to appoint and compensate such technical and professional personnel as he deems necessary to accomplish the purposes of the Institute without regard to Civil Service or Classification laws. Because the Committee has provided that 90% of the amount appropriated for the Institute must be spent on activities outside the Institute, the Committee expects that this authority will be utilized on a limited basis.

"Excepted" authority has traditionally been used as a way of drawing high caliber scientific, technical and administrative talent to Federal research and development agencies. The National Science Foundation, the National Aeronautics and Space Administration, National Institutes of Health and Atomic Energy Commission—each has some kind of statutory exception authority. Provisions vary from agency to agency. The National Science Foundation is authorized to except all professional, scientific and administrative personnel. The Atomic Energy Commission has its own personnel system covering all employees. The National Institutes of Health can hire professional, scientific and administrative personnel as non-competitive Civil Service supergrades. Congress has thus recognized that research and development agencies normally require such special personnel provisions. Such authority is indispensable to the capacity of the National Institute of Education to be a magnet for vigorous and high quality leadership in research and development.

There are several reasons for such provisions:

Any effective research and development effort requires men and women of exceptional talent at all levels of the agency. Every agency needs people of outstanding ability for its top management positions, but a research and development agency needs top scientific and other talent for non-managerial positions as well: for short-term problem solving, intra-mural research programs and for supervising important research contracts.

In order to attract such persons, a research and development agency requires more flexible salary provisions, and freedom to move more quickly in hiring than the Civil Service system normally allows.

It is difficult to create competitive standards in choosing scientific personnel, for in this field a certain person may be the only one with the expert knowledge needed for a given task.

Civil Service tenure would also be inappropriate for many Institute personnel. The Institute will bring in professional staff members for short term assignments such as problem analysis, program planning and to serve as managers of highly specialized contracts for the duration of the contract only. In addition, the Institute must assure that certain kinds of personnel do not remain at the Institute so long that they lose their value to its work. For example, the Institute will need scientists who understand developments at the frontiers of their fields and educators with substantial practical expertise in day-to-day education problems.

National Advisory Council on Educational Research and Development

The bill in [illegible]406 provides for appointment by the President, subject to the advice and consent of the Senate, of a National Advisory Council on Educational Research and Development with 15 voting members, including the Commissioner of Education and the Director of the Institute, and such other non-voting members ex officio as he may deem appropriate.

The bill specifies that the responsibilities of the Advisory Council will be to advise the Secretary, the Director, the President and the Congress on the status of education, educational research and the prospective educational needs of our society. Because of the breadth of the Council's mandate, the Committee anticipates that the President will consider the appointment of members from among educators and academics and from other walks of life as well.

AUTHORIZATION

The Administration has informed the Committee that the five-year budget proposed for the National Institute of Education is as follows:

PROJECTED NIE BUDGET 1972-76

(In millions of dollars)

	Fiscal year—				
	1972	1973	1974	1975	1976
Existing Authority	0	[1] 118.5	150	180	220
Added budget authority	[2] 3	31.5	30	40	45
Total	3	150	180	220	265

[1] Fiscal 1973 base figure assumes that the majority of NCERD programs will be transferred to NIE.
[2] Initial start-up expenses and planning costs.

Source: National Center for Education Research and Development, Office of Education.

This proposal represents a relatively modest increment over current funding levels and an expansion of the operation of the Institute at a rate of approximately 20 percent a year. Research and development experiences in other fields have shown the 20 percent growth rate to be the rate of expansion that such institutions can soundly accommodate.

TITLE XV—ETHNIC HERITAGE STUDIES

Title XV of the bill amends the Higher Education Act of 1965 by authorizing a new program for the development of ethnic heritage curriculum materials by institutions of higher education for use in the Nation's elementary and secondary schools. This program also provides for the dissemination of these materials and for the training of teachers in their employment. $20 million is authorized to be appropriated in fiscal year 1972 and $30 million in fiscal year 1973.

This program has two basic purposes: to aid elementary and secondary school students in learning about their own heritages and to assist them in learning about the heritages of other citizens. The program is meant to provide children of different ethnic backgrounds a

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TITLE IV—GENERAL PROVISIONS CONCERNING EDUCATION

PROGRAMS SUBJECT TO THIS TITLE; DEFINITIONS; APPROPRIATIONS SHORT TITLE

[SEC. 401.] *SEC. 400.* (a) The provisions of this title shall apply to any program for which the Commissioner of Education has responsibility for administration, either as provided by statute or by delegation pursuant to statute. Amendments to Acts authorizing such programs shall not affect the applicability of this title unless so specified by such amendments.

(b) For the purposes of this title, the term—

(1) 'Commissioner' means the Commissioner of Education;

(2) 'Secretary' means the Secretary of Health, Education, and Welfare; and

(3) 'applicable program' means a program to which this title is applicable.

(c) There are hereby authorized to be appropriated for any fiscal year, as part of the appropriations for salaries and expenses for the Office of Education, such sums as the Congress may determine to be necessary to carry out the provisions of this title.

(d) This title may be cited as the 'General Education Provisions Act'.

PART A—EDUCATION DIVISION OF THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

THE EDUCATION DIVISION

[*SEC. 401. There shall be, within the Department of Health, Education, and Welfare, and Education Division which shall be composed of the Office of Education, the National Foundation for Postsecondary Education, and the National Institute of Education, and shall be headed by the Commissioner of Education.*

THE OFFICE OF EDUCATION

SEC. 402. (a) *The purpose and duties of the Office of Education shall be to collect statistics and facts showing the condition and progress of education in the United States, and to disseminate such information respecting the organization and management of schools and school systems, and methods of teaching, as shall aid the people of the United States in the establishment and maintenance of efficient school systems, and otherwise promote the cause of education throughout the country. Nothing in this section, or any other provision of law, shall be construed to grant the Office of Education any authority which is not expressly provided for by statute or implied therein.*

(b)(1) *The management of the Office of Education shall, subject to the direction and supervision of the Secretary, be entrusted to a Commissioner of Education, who shall be appointed by the President by and with the*

advice and consent of the Senate, and who shall serve at the pleasure of the President.

(2) There shall be a Deputy Commissioner of Education (referred to in this section as "Deputy Commissioner") who shall be appointed by the President by and with the advice and consent of the Senate, and shall serve at the pleasure of the President, and who shall perform such duties as the Commissioner may prescribe by regulation. The Deputy Commissioner shall serve as Commissioner during the absence or disability of the Commissioner.

(3) Persons holding the offices created by paragraphs (1) and (2) shall be compensated at the following rates specified for the Executive Schedule in subchapter II of title 5, United States Code:

(A) The Commissioner shall be compensated at the rate provided for level IV under section 5315 thereof.

(B) The Deputy Commissioner shall be compensated at the rate provided for level V under section 5316 thereof.

Any modification of the rates of pay specified for such Executive Schedule which is the result of actions of the President, after December 16, 1967, pursuant to section 225 of Public Law 90-206, shall be applicable to positions created, and for which rates of pay are specified, by this subsection.

(4) The Commissioner and the Deputy Commissioner may not engage in any other business, vocation, or employment while serving in any such position, nor may any of them, except with the express approval of the President in writing, hold any office in, or act in any capacity for, or have a financial interest in, any organization, agency, or institution to which the Office of Education makes a grant or with which it makes a contract or other financial arrangement.

(5) There are hereby created six additional positions within the Office of Education which shall be placed in grade 18 of the General Schedule set forth in section 5332 of title 5, United States Code; and such positions shall be in addition to the number of positions placed in that grade under section 5107 of such title.

NATIONAL FOUNDATION FOR POSTSECONDARY EDUCATION

SEC. 403. (a)(1) The National Foundation for Postsecondary Education (referred to in this section as the 'Foundation'), shall consist of a Postsecondary Education Board (referred to in this section as the 'Board') and a Director. The Foundation shall have only such authority as may be vested therein by this section or delegated thereto by the Commissioner and shall be subject to the general regulations of the Commissioner promulgated for its management.

(2) It shall be the purpose of the Foundation —

(A) to encourage excellence, innovation, and reform in postsecondary education;

(B) to provide assistance for the design and establishment of innovative structures for providing postsecondary education and innovative modes of teaching and learning therein;

(C) to expand the ways and patterns of acquiring postsecondary education and to open opportunities for such education to individuals of all ages and circumstances;

(D) to strengthen the autonomy, individuality, and sense of mission of postsecondary educational institutions, and to support programs which are distinctive or of special value to American society; and

(E) to encourage postsecondary educational institutions to develop policies, programs, and practices responsive to social needs, and to provide an organization concerned with the rationalization of public policies toward postsecondary education.

(b)(1) The Board shall consist of fifteen members, at least one of whom shall be student at the time of his appointment, appointed by the President, by and with the advice and consent of the Senate, the District, and such other ex officio members who are officers of the United States as the President may designate. Eight members (excluding ex officio members) shall constitute a quorum. The Chairman of the Board shall be designated by the President from among its appointed members. Ex officio members shall not have a vote.

(2) The term of office of members of the Board (other than ex officio members) shall be six years, except that (A) any member appointed to fill a vacancy shall serve only such portion of a term as shall not have been expired at the time of such appointment, and (B) in the case of initial members, five shall serve for terms of four years and five for terms of two years. Any person, whose term of office is subject to this paragraph, who has been a member of the Board for six consecutive years shall thereafter be ineligible for appointment to the Board during the two-year period following the expiration of such sixth year.

(3) Subject to such general regulations of the Commissioner promulgated for the management of the Foundation, the Board shall—

(A) establish general policies for, and review the conduct of, the Foundation;

(B) meet at the call of the Chairman of the Board, except that it shall meet (i) at least four times during each fiscal year, or (ii) whenever one-third of the members request a meeting in writing, in which event one-third of the members (excluding ex officio members) shall constitute a quorum;

(C) submit an annual report to the President on the activities of the Foundation and the status of post-secondary education in the United States, which (i) shall include such recommendations and comments as the Board may deem appropriate, and (ii) shall be submitted to the Congress not later than March 31 of each year;

(D) make and submit to the President and the Congress such other rights as it may deem necessary.

The Board shall have the responsibility for the general policies with respect to the powers, duties, and authorities vested in the Foundation under this section. The Director shall make available to the Board such information and assistance as may be necessary to enable the Board to carry out its functions.

(c)(1) The Director of the Foundation (referred to in this section as the "Director") shall be appointed by the President, by and with the advice and consent of the Senate, and shall serve at the pleasure of the President. The Director shall be compensated at the rate provided for level V of the Executive Schedule under section 5316 of title 5 United States Code, and shall perform such duties and exercise such powers as the Board, subject to general regulations of the Commissioner, may prescribe.

(2) *There shall be a Deputy Director of the Foundation (referred to in this section as the "Deputy Director") who shall be appointed by the President and shall serve at the pleasure of the President. The Deputy Director shall be compensated at the rate provided for grade 18 of the General Schedule set forth in section 5332 of title 5, United States Code, and shall exercise such powers as the Director may prescribe. The Deputy Director shall serve as Director during the absence of disability of the Director or in the event of a vacancy in the Office of Director. The position created by this paragraph shall be in addition to the number of positions placed in grade 18 of the General Schedule under section 5108 of title 5, United States Code.*

(3) *There are hereby created three additional positions within the Foundation which shall be placed in grade 18 of the General Schedule set forth in section 5332 of title 5, United States Code; and such positions shall be in addition to the number of positions placed in that grade under section 5108 of such title.*

(d) *The Foundation is authorized to make grants to, and contracts with, institutions of higher education (including combinations of such institutions) and other public and private nonprofit educational institutions and agencies to improve postsecondary educational opportunities by providing assistance for—*

(1) *encouraging the reform, innovation, and improvement of postsecondary education, and providing equal educational opportunity for all;*

(2) *the creation of institutions and programs involving new paths to career and professional training, and new combinations of academic and experiential learning;*

(3) *the establishment of institutions and programs based on the technology of communications;*

(4) *the carrying out in postsecondary educational institutions of changes in internal structure and operations designed to clarify institutional priorities and purposes;*

(5) *the design and introduction of cost-effective methods of instruction and operation;*

(6) *the introduction of institutional reforms designed to expand individual opportunities for entering and reentering institutions and pursuing programs of study tailored to individual needs;*

(7) *the introduction of reforms in graduate education, in the structure of academic professions, and in the recruitment and retention of faculties; and*

(8) *the creation of new institutions and programs for examining and awarding credentials to individuals, and the introduction of reforms in current institutional practices related thereto.*

(e) *In carrying out this section, the Director shall have the authority—*

(1) *to enter into contracts without performance or other bonds, and without regard to section 3709 of the Revised Statutes (41 U.S.C. 5);*

(2) *to make advance, progress, and other payments without regard to the provisions of section 3648 of the Revised Statutes (31 U.S.C. 529);*

(3) *to receive money and other property donated, bequeathed, or devised to the Foundation with or without a condition or restriction,*

including a condition that the Foundation use other funds for the purposes of the gift; and to use, sell, or otherwise dispose of such property for the purposes of this section;

(4) to publish or arrange for the publication of information without regard to the provisions of section 501 of title 44, United States Code;

(5) to accept and utilize the services of voluntary and uncompensated personnel, notwithstanding the provisions of section 3679(b) of the Revised Statutes (31 U.S.C. 665(b)), and to provide transportation and subsistence as authorized by section 5703 of title 5, United States Code, for persons serving without compensation;

(6) to arrange with and reimburse the heads of other Federal agencies for the performance of any activity which the Foundation is authorized to conduct; and

(7) to appoint, for terms not to exceed three years, and compensate without regard to the civil service or classification laws such technical or professional employees of the Foundation as he deems necessary to accomplish its functions, and also to appoint and compensate without regard to such laws not to exceed one-fifth of the number of full-time, regular technical or professional employees of the Foundation.

(f) There is authorized to be appropriated, without fiscal year limitations, $250,000,000, in the aggregate, for the period beginning July 1, 1972, and ending June 30, 1976, to carry out the functions of the Foundation. Sums so appropriated shall, notwithstanding any other provision of law, unless enacted in express limitation of this subsection, remain available for the purposes of this section until expended.

NATIONAL INSTITUTE OF EDUCATION

SEC. 404. (a)(1) The National Institute of Education (hereinafter referred to as the 'Institute') shall consist of a National Council on Educational Research (hereinafter referred to as the 'Council') and a Director of the Institute (hereinafter referred to as the 'Director'). The Institute shall have only such authority as may be vested therein by this section and subject to general regulations of the Commissioner promulgated for its management.

(2) The Institute shall, in accordance with the provisions of this section, seek to improve education, including career education, in the United States through—

(A) helping to solve or to alleviate the problems of, and achieve the objectives of American education;

(B) advancing the practice of education, as an art, science, and profession;

(C) the strengthening of the scientific and technological foundations of education; and

(D) building an effective educational research and development system.

(b)(1) The Council shall consist of fifteen members appointed by the President, by and with the advice and consent of the Senate, the Director, and such other ex officio members who are officers of the United States as the President may designate. Eight members of the Council (excluding ex officio members) shall constitute a quorum. The Chairman of the

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Council shall be designated from among its appointed members by the President. Ex officio members shall not have a vote.

(2) The term of office of the members of the Council (other than ex officio members) shall be three years, except that (A) any member appointed to fill a vacancy shall serve only such portion of a term as shall not have been expired at the time of such appointment, and (B) in the case of initial members, five shall serve terms of two years and five shall serve terms of one year. Any person who has been a member of the Council for six consecutive years shall thereafter be ineligible for appointment to the Council during the two-year period following the expiration of such sixth year.

(3) Subject to general regulations of the Commissioner promulgated for the management of the Institute, the Council shall—

(A) establish general policies for, and review the conduct of, the Institute;

(B) review, and advise the Commissioner on the status of, educational research in the United States;

(C) meet at the call of the Chairman, except that it shall meet (i) at least six times during each fiscal year, or (ii) whenever one-third of the members request a meeting in writing, in which event one-third of the members (excluding ex officio members) shall constitute a quorum;

(D) submit an annual report to the President on the activities of the Institute, and on educational research in general, which (i) shall include such recommendations and comments as the Council may deem appropriate, and (ii) shall be submitted to the Congress not later than March 31 of year; and

(E) make and submit to the President and the Congress such other reports as it may deem necessary.

The Council shall have the responsibility for the general policies with respect to the powers, duties, and authorities vested in the Institute under this section. The Director shall make available to the Council such information and assistance as may be necessary to enable the Council to carry out its functions.

(c)(1) The Director of the Institute shall be appointed by the President, by and with the advice and consent of the Senate, and shall serve at the pleasure of the President. The Director shall be compensated at the rate provided for level V of the Executive Schedule under section 5316 of title 5, United States Code, and shall perform such duties and exercise such powers and authorities as the Council, subject to general regulations of the Commissioner, may prescribe.

(2) There shall be a Deputy Director of the Institute (referred to in this section as the "Deputy Director") who shall be appointed by the President and shall serve at the pleasure of the President. The Deputy Director shall be compensated at the rate provided for grade 18 of the General Schedule set forth in section 5332 of title 5, United States Code, and shall act for the Director during the absence or disability of the Director and exercise such powers and authorities as the Director may prescribe. The position created by this paragraph shall be in addition to the number of positions placed in grade 18 of the General Schedule under section 5108 of title 5, United States Code.

(3) There are hereby created three additional positions within the Institute which shall be placed in grade 18 of the General Schedule set forth in section 5332 of title 5, United States Code; and such positions

shall be in addition to the number of positions placed in that grade under section 5108 of such title.

(d)(1) In order to carry out the objectives of the Institute, the Commissioner is authorized, through the Institute, to conduct educational research; collect and disseminate the findings of educational research; train individuals in educational research; assist and foster such research, collection, dissemination, or training through grants, or technical assistance to, or jointly financed cooperative arrangements with, public or private organizations, institutions, agencies, or individuals; promote the coordination of such research and research support within the Federal Government; and may construct or provide (by grant or otherwise) for such facilities as he determines may be required to accomplish such purposes. As used in this subsection, the term "educational research" includes research, planning, surveys, evaluations, investigations, experiments, developments, and demonstrations in the field of education (including career education).

(2) The Commissioner may appoint, for terms not to exceed three years, and compensate without regard to the civil service or classification laws, such technical or professional employees of the Institute as he deems necessary to accomplish its functions and may appoint and compensate without regard to such laws not to exceed one-fifth of the number of full-time, regular technical or professional employees of the Institute.

(e) There are hereby authorized to be appropriated, without fiscal year limitations, $800,000,000, in the aggregate, for the period beginning July 1, 1972, and ending June 30, 1976, to carry out the functions of the Institute. Sums so appropriated shall, notwithstanding any other provision of law unless enacted in express limitation of this subsection, remain available for the purposes of this subsection until expended.

[Part A] *Part B*—Appropriations and Evaluations

Program Planning and Evaluation

[Sec. 402.] *Sec. 411.* (a) Sums appropriated pursuant to section 401(c) may include for any fiscal year for which appropriations are otherwise authorized under any applicable program not to exceed $25,000,000 which shall be available to the Secretary, in accordance with regulations prescribed by him, for expenses, including grants, contracts, or other payments, for (1) planning for the succeeding year for any such program, and (2) evaluation of such programs.

(b) No later than July 31 of each calendar year, the Secretary shall transmit to the respective committees of the Congress having legislative jurisdiction over any applicable program a report containing (1) a brief description of each contract or grant for evaluation of such program or programs (whether or not such contract or grant was made under this section), any part of the performance of which occurred during the preceding fiscal year, (2) the name of the firm or individual who is to carry out the evaluation, and (3) the amount to be paid under the contract or grant.

Advance Funding

[Sec. 403.] *Sec. 412.* To the end of affording the responsible State, local, and Federal officers concerned adequate notice of available

Calendar No. 342

92D CONGRESS
1st Session

SENATE

REPORT
No. 92-346

EDUCATION AMENDMENTS OF 1971

AUG. 3, 1971.—Ordered to be printed

Mr. PELL, from the Committee on Labor and Public Welfare, submitted the following

REPORT

[To accompany S. 659]

The Committee on Labor and Public Welfare, to which was referred the bill (S. 659) to amend the Higher Education Act of 1965, the Vocational Education Act of 1963, and related Acts, and for other purposes having considered the same, reports favorably thereon with amendments and recommends that the bill, as amended, do pass.

The amendments (1) amend the bill in the nature of a substitute and (2) amend the title of the bill so as to read: "A bill to amend the Higher Education Act of 1965, the Vocational Education Act of 1963, the General Education Provisions Act (creating a National Foundation for Postsecondary Education and a National Institute of Education), the Elementary and Secondary Education Act of 1965, Public Law 874, Eighty-first Congress, and related Acts, and for other purposes."

BACKGROUND OF THE COMMITTEE AMENDMENT

During the 91st Congress, the Committee on Labor and Public Welfare, between February 5, 1970 and August 19, 1970, held eleven days of hearings on S. 3474 of the 91st Congress (a bill to amend the Higher Education Act of 1965, the National Defense Education Act of 1958, the Higher Education Facilities Act of 1963, the International Education Act of 1966, and for other purposes) and twenty-one related bills. That hearing record was incorporated into the record for the 92nd Congress.

Based on testimony and other evidence submitted to the Committee during the 91st Congress, a new bill (S. 659) was introduced in the 92nd Congress on February 8, 1971. The new bill incorporated many of the provisions proposed in the twenty-two bills considered

by the Committee during the 91st Congress. Between March 3, 1971 and June 9, 1971, fifteen days of hearings were held on S. 659 and eighteen related bills. The Committee amendment is based on the text of S. 659, and contains modifications thereof which the Committee finds justified in light of the evidence before it. Many of those modifications are drawn from the related bills considered by the Committee.

BRIEF SUMMARY OF THE COMMITTEE AMENDMENT

S. 659, as proposed to be amended by the Committee amendment, would, if adopted, contain the following provisions:

TITLE I—HIGHER EDUCATION

This title amends, revises, and extends the Higher Education Act of 1965. Portions of the National Defense Education Act of 1958, the Higher Education Facilities Act of 1963, and the International Education Act of 1966 are incorporated into the Higher Education Act of 1965 with the result that, if the Committee amendment is enacted, the Higher Education Act of 1965 would constitute a single Federal law which includes all continuing higher education financial assistance programs. In general, unless otherwise specified, title I extends the authorizations for higher education programs for four years, through fiscal year 1975, at the same level as those for fiscal year 1971.

PART A—COMMUNITY SERVICE AND CONTINUING EDUCATION PROGRAMS

This part amends title I of the Higher Education Act of 1965. Such title I authorizes grants to States for assistance to institutions of higher education to enable them to help solve community problems through community service programs and continuing education programs. It is proposed that—

(1) title I be amended to authorize a reservation of appropriations for special projects designed to meet national and regional problems;

(2) title I be amended to authorize a special appropriation for projects designed to meet urban problems in Standard Metropolitan Statistical Areas;

(3) the Commissioner be required to conduct a special evaluation of title I and submit reports to the Congress on such evaluations.

PART B—COLLEGE LIBRARY PROGRAMS

This part amends title II of the Higher Education Act of 1965. Such title II authorizes—

(1) grants to institutions of higher education for the acquisition of college library resources;

(2) grants and contracts for research and training in librarianship; and

(3) funds for the Library of Congress for cataloguing of library materials and distribution of cataloguing information.

The amendments made by part B—

(1) reorganize the authorizations of appropriations by providing for a single authorization for parts A and B of title II and a percentage division of the appropriation for specific purposes;

(2) authorize the Commissioner to waive maintenance of effort requirements for grants for the acquisition of library resources;

(3) increase the maximum amounts for supplemental grants; and

(4) require an annual evaluation of the program operation by the Library of Congress.

Part C—Developing Institutions; Emergency Assistance to Institutions of Higher Education

This part (1) amends title III of the Higher Education Act of 1965, and (2) contains a special authorization of appropriations for emergency interim assistance to institutions of higher education which are in serious financial distress, and (3) requires a study of financing higher education, including uniform cost accounting standards.

Such title III of the Higher Education Act of 1965 authorizes grants to developing institutions of higher education to enable them to strengthen their academic and administrative capacities. Part C revises such title III to improve the program of strengthening developing institutions and increase emphasis on institutions which serve a significant proportion of students who come from disadvantaged backgrounds.

Part D—Student Assistance

This part amends present law as it relates to financial assistance to students in institutions of higher education. The amendments made by this part—

(1) revise part A of title IV of the Higher Education Act of 1965 to authorize—

(A) a Basic Educational Opportunity Grant of $1,400 for any student minus the amount his or her family can reasonably be expected to contribute for his or her postsecondary education;

(B) a Supplemental Educational Opportunity grant (a continuation of the present educational opportunity grant program) for students who are in exceptional financial need and who would be unable to receive the benefits of a postsecondary education without such a grant, which grants are (i) to supplement the basic grants, and (ii) to aid students who are not eligible for basic grants but who are in need of financial assistance;

(C) matching grants to States to encourage the development and expansion of State scholarship programs;

(D) special services to encourage disadvantaged students to complete secondary school and to enter and continue programs of postsecondary education;

(E) cost-of-instruction allowance payments to institutions of higher education at which basic grant recipients are in attendance;

(2) modify the insured student loan program—

(1) by permitting an increase in the maximum amount of student loans in exceptional cases, and

(2) by authorizing the Commissioner to audit eligible institutions, to set reasonable standards of financial responsibility for such institutions, and suspend or terminate their eligibility;

(3) create a Student Loan Marketing Association for warehousing student loans and in order to create a secondary market for such loans;

(4) modify the determination of need under the College Work-Study Program by requiring that the actual cost of attendance at the institution be taken into consideration;

(5) transfer the provisions for direct student loans under title II of the National Defense Education Act of 1958 to title IV of the Higher Education Act of 1965, with minor modifications; and

(6) require an affidavit by students stating student assistance funds received by the student will be used for education related purposes.

Part D also requires the Secretary of Health, Education and Welfare to conduct a study of financing postsecondary education.

Part E—Education Professions Development Act

This part amends title V of the Higher Education Act of 1965, the Education Professions Development Act. The Education Professions Development Act authorizes the Teacher Corps and a variety of programs designed to improve the quality of teaching in elementary and secondary schools, vocational education programs, and in institutions of higher education. The amendments made by part E—

(1) combine the seven authorizations under the Education Professions Development Act into a single authorization with a percentage division of the appropriations among the programs authorized by the Act.

(2) clarify the status of the Teacher Corps; and

(3) together with minor and technical amendments, expand the scope of the training programs authorized by the Education Professions Development Act.

Part F—Instructional Equipment

This part extends title VI of the Higher Education Act of 1965. Such title VI authorizes financial assistance to institutions of higher education for the improvement of under graduate instruction. Funds may be used for the acquisition of instructional equipment and closed circuit television equipment.

Part G—Academic Facilities

This part transfers the provisions of the Higher Education Facilities Act of 1963 to title VII of the Higher Education Act of 1965, with modifications and a new authorization for mortgage insurance on facilities.

PART H—NETWORKS FOR KNOWLEDGE

This part extends title VIII of the Higher Education Act of 1965, with technical and clarifying amendments. Such title VIII encourages cooperative arrangements among institutions of higher education for the joint use of facilities and resources to form networks for knowledge. The amendments make clear that law schools are to be included.

PART I—GRADUATE PROGRAMS AND COMMUNITY COLLEGE PROGRAMS

This part creates two new titles IX and X, in lieu of the present titles IX and X of the Higher Education Act of 1965. The new title IX—

(1) in part A, combines a number of present graduate programs into a single program of assistance to strengthen graduate schools;

(2) in part B, combines various fellowship programs into a broad program of Federal fellowships.

The new title X provides for State wide plans for postsecondary educational opportunities through community colleges and authorizes grants for—

(1) the establishment of New Community Colleges;

(2) the expansion of present community colleges;

(3) the lease of facilities.

PART J—LAW SCHOOL CLINICAL EXPERIENCE PROGRAMS

This part extends and makes minor changes in the program to encourage law schools to provide clinical experience in the law.

TITLE II—VOCATIONAL EDUCATION

This title extends for one year those authorizations for appropriations for programs under the Vocational Education Act of 1963 which expire June 30, 1972. The Vocational Education Act of 1963 is also amended—

(1) to clarify the definition of vocational education, with respect to industrial arts, and to include volunteer firemen; and

(2) to create, within the Office of Education, a Bureau of Occupational, Career, and Adult Education.

TITLE III—ESTABLISHMENT OF A NATIONAL FOUNDATION FOR POSTSECONDARY EDUCATION AND A NATIONAL INSTITUTE OF EDUCATION

This title establishes an Education Division within the Department of Health, Education and Welfare which is headed by the Commissioner of Education. The Education Division will include the present office of Education and the newly created National Foundation for Postsecondary Education and the newly created National Institute of Education.

TITLE IV—INDIAN EDUCATION

This title amends Public Law 874, Eighty-first Congress and the Elementary and Secondary Education Act of 1965 with respect to Indian children. The title also amends the Adult Education Act to authorize special projects for Indians and makes miscellaneous amendments. Part D of title IV establishes, within the Office of Education, a Bureau of Indian Education to administer the newly established programs.

TITLE V—MISCELLANEOUS

This title, other than minor and technical amendments—

(1) provides for uniform application requirements;

(2) extends title III of the National Defense Education Act of 1958 for four years;

(3) requires a study of and report on regulations and guidelines issued by the Office of Education.

(4) amends the Elementary and Secondary Education Act of 1965, authorizing an Ethnic Studies Centers Program;

(5) establishes a Consumers' Education Program;

(6) makes the University of Guam and the College of the Virgin Islands land-grant colleges;

(7) amends title I of the Elementary and Secondary Education Act of 1965 with respect to migrant children.

EXPLANATION OF THE BILL, AS AMENDED

The "Education Amendments of 1971" (S. 659) is designed to be an omnibus education bill through which the 92nd Congress will deal legislatively with education programs which expire with fiscal year 1971 or 1972. The programs for which authorizations of appropriations expired June 30, 1971 are those authorized by—

(1) the Higher Education Act of 1965;

(2) the Higher Education Facilities Act of 1963;

(3) the National Defense Education Act of 1958; and

(4) the International Education Act of 1966.

Legislation dealing with these acts is contained in title I of the bill (higher education).

The authorizations of appropriations which expire June 30, 1972 are—

(1) those in the Vocational Education Act of 1963 (except the permanent authorization for parts B and C of such Act);

(2) those special authorizations of appropriations in the Elementary and Secondary Education Act of 1965 for special programs for Indian children.

Title II (vocational education) and title IV (Indian education) of the bill deal with legislation expiring with fiscal year 1972.

Title III of the bill deals with the organizational structure of agencies administering Federal education programs at the Federal level. This title was developed as a response to a widespread interest in the establishment of a National Foundation for Postsecondary Education and a National Institute of Education and to carry out a policy of the Committee in favor of a single, high level agency as the Federal agency dealing with education in general.

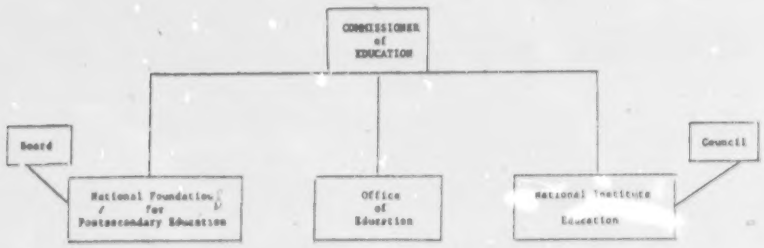
TITLE III—ESTABLISHMENT OF NATIONAL FOUNDATION FOR POSTSECONDARY EDUCATION AND THE NATIONAL INSTITUTE OF EDUCATION

Title III of the bill amends the General Education Provisions Act by (1) reestablishing the Office of Education, (2) establishing a National Foundation for Postsecondary Education, and (3) establishing a National Institute of Education. These three agencies are to be within an Education Division of the Department of Health, Education, and Welfare. The Education Division is to be headed by a Commissioner of Education who is to be placed in Executive Level IV. The Committee recommends the establishment of the Education Division in order to carry out a policy that there be one Federal agency headed by a Commissioner who is the single spokesman for education in the Executive Branch.

The Committee heard testimony in favor of establishing a separate Department of Education. Although this is great support in the Senate, generally for the establishment of a Department, it was thought that this bill, under the circumstances faced by the Committee at this time, would not be the proper vehicle to create a Department of Education. In recommending the creation of an Education Division, the Committee is serving notice that a consideration of a Department of Education is now in order, and that within the next few years the question of the proper organization of education policy bodies ought to be resolved, either by the creation of a Department of Education or by some other means.

In creating the Education Division, the Committee wishes to emphasize that the Commissioner of Education, in his new role, must assure a continuing interchange and cooperation between the principal components of the Division, namely the Office of Education, the National Institute of Education, and the National Foundation for Post Secondary Education.

AGENCIES REPORTING TO THE COMMISSIONER OF EDUCATION



National Foundation for Postsecondary Education

The Committee believes that the need is clear and the time is ripe for reform and innovation in postsecondary education. Americans have come to realize that our postsecondary educational system is beset with problems: high drop-out rates; overemphasis on classroom teaching and lectures; rigid patterns of college attendance; inadequate

programs and innovations in career and professional education; grave imbalances between teaching and research; large scale inefficiencies in the use of institutional resources; graduate programs unresponsive to changing social needs; institutions which have become so large and so complex as to have lost their sense of mission; inadequate state planning; outmoded policies of accreditation of institutions and certification of individuals—these and other problems are now widely recognized.

During 1970 and early 1971, major commissions and groups issued reports calling for substantial reform in postsecondary education. The Carnegie Commission on Higher Education issued a report which recommended major changes in educational sequences and patterns of college attendance. The Assembly on University Goals and Governance, sponsored by the American Academy of Arts and Sciences, propounded ninety-five "theses" concerning needed reforms in colleges and universities. The President's Commission on Student Unrest (the Scranton Commission) proposed significant changes in the missions of educational institutions. A task force funded by the Ford Foundation (the Newman Task Force) issued a report calling for new educational enterprises to solve the problems which beset postsecondary education.

By and large, these problems must be attributed to the fact that postsecondary institutions have simply not been able to keep pace with the tremendous social changes and new demands for postsecondary education. Twenty years ago less than a quarter of our young people went to college; today over half do. Twenty years ago most of our postsecondary institutions served a select and relatively homogenous population. Today they serve students from all kinds of economic and social backgrounds and a wide range of abilities and interests. And not only must our postsecondary institutions respond to an increasingly diverse clientele of young people, but new social groups—housewives, workers, individuals of all ages and circumstances—want to begin or continue some form of postsecondary education.

Now, after several decades of rapid growth and several years of conflict and turmoil, postsecondary education is coming alive with new ideas. A Commission on Non-traditional Study is at work. Several "universities without walls" are in operation. New technologies are coming on line—cable television, cassettes, miniature computers—which have the potential of transforming access to postsecondary education.

This type of creativity must be encouraged. As enrollment levels off in the mid 1970's, as states commit themselves to governing and coordinating arrangements and a given set of institutions, as federal support rises, as more and more institutions become organized into multi-campus units and faculties into unions, postsecondary institutions and programs will increasingly form a system which tends toward stability.

The Federal government is not now equipped to perform the task of assisting innovation and reform in postsecondary education. Most of the Federal expenditures for postsecondary education are in the form of assistance for students or assistance for research which the various government agencies want done. To be sure, certain Federal agencies provide excellence, innovation, and reform. The National Science Foundation has played this role in science education, and the National

Institutes of Health has played this role in medical research. The small project grant programs in the Office of Economic Opportunity and the Office of Education have also accomplished significant things. But none of these institutions have had the mandate or the authority to evaluate the overall needs of the American people for postsecondary education, and to respond to these needs with grant support on a scale to make a real difference.

Indeed, the Federal activity has done much to encourage only one type of entrepreneur in postsecondary education—the research entrepreneur with his government grants, his laboratory, and his staff. The National Foundation for Postsecondary Education will encourage a new type of entrepreneur—the educational entrepreneur who will devote his talents and energies to the teaching and learning of our citizens.

The Committee favors that the Foundation approach is the right approach to this leadership role. The Foundation form of funding—competitive project grants—has time and again proven to be a successful technique for stimulating new ideas, and supporting reforms and innovations. The Foundation form of organization—a strong Board, a dynamic Director responsible to this Board, and a skilled and experienced staff has proven to be perfectly suited to administer a competitive grant program with judgment and discretion. There are two additional reasons why the Committee believes the Foundation approach is the right one. First, a Foundation form of organization is suited to assist innovations in postsecondary education without dictating from the Federal level what the nature of these innovations will be. The Board will ensure that the programs funded by the Foundation will be in the best interests of the public and the educational community. Second, the Foundation will represent a new start within the Government, and will have the freshness of mission, the prestige, and the opportunity to recruit a new Director and staff which will add that margin of vitality needed to accomplish its mission.

Section 403 authorizes a National Foundation for Postsecondary Education to encourage excellence, innovation, and reform throughout postsecondary education. The purpose section of the bill makes clear that the Foundation's interest in innovation and reform in postsecondary education includes not only curricular change in existing institutions, but also embraces such activities as the design and establishment of new structures and modes for providing postsecondary evaluation, the expansion of ways and patterns of acquiring postsecondary education, the strengthening of institutional missions and the encouragement of institutional policies, programs, and practices responsive to social needs.

The Foundation is to be concerned with the entire range of programs and institutions which provide education beyond the high school. To clarify this intention, it is named the National Foundation for Postsecondary Education. The Foundation is administratively located within the new Division of Education, headed by the Commissioner of Education, a..., is subject to the general regulations which the Commissioner may promulgate for its management. It has coequal status with the National Institute of Education and the Office of Education.

A Postsecondary Education Board is created consisting of 15 members, appointed by the President by and with the advice and consent of

the Senate. Each Board member serves six years with the exception of (1) initial appointments which are staggered and (2) appointment to fill a vacancy. Members who have served for six years are ineligible for reappointment during the two-year period following the expiration of the sixth year. In requiring that at least one student must be designated as a member of the Board, the Committee recognizes that students, who are the clientele of the Nation's colleges and universities, have a proper role to play in fostering innovation.

The Board is empowered to establish general policies for, and review the conduct of, the Foundation, and to make and submit to the President and Congress such other reports as it may find necessary. It is obligated to submit an annual report to the President on the activities of the Foundation and the status of postsecondary education in the United States which shall be submitted to Congress no later than March 31 of each year.

The Director of the Foundation is to be appointed by the President by and with the advice and consent of the Senate, and serves at the pleasure of the President. He is to be compensated at the rate provided for level V of the Executive Schedule. The bill, in addition, provides for a presidentially appointed Deputy Director and three additional grade 18 positions.

The Foundation is authorized to make grants to, and contracts with, institutions of higher education (including combinations of such institutions) and other public and private educational institutions and agencies for such activities as follows:

(1) encouraging the reform, innovation, and improvement of postsecondary education, and providing equal educational opportunity for all;

(2) the creation of institutions and programs involving new paths to career and professional training, and new combinations of academic and experiential learning;

(3) the establishment of institutions and programs based on the technology of communications;

(4) the carrying out in postsecondary educational institutions of changes in internal structure and operations designed to clarify institutional priorities and purposes;

(5) the design and introduction of cost-effective methods of instruction and operation;

(6) the introduction of institutional reforms designed to expand individual opportunities for entering and reentering institutions and pursuing programs of study tailored to individual needs;

(7) the introduction of reforms in graduate education, in the structure of academic professions, and in the recruitment and retention of facilities; and

(8) the creation of new institutions and programs for examining and awarding credentials to individuals, and the introduction of reforms in current institutional practices related thereto.

There is authorized to be appropriated, $250 million, in the aggregate, without fiscal year limitations, for the period beginning July 1, 1972, and ending June 30, 1975.

The Foundation is located in the newly created Education Division in order to combine the advantages of autonomy and independent action with the benefits of cordination with other educational programs. The Committee wishes to emphasize however that the Foundation's activities must be coordinated with all the agencies which conduct significant activities in postsecondary education, including not only the Office of Education but the National Institute of Health, the National Science Foundation, and the National Endowment for the Arts and the National Endowment for the Humanities, and other agencies.

The authority of the Commissioner of Education to promulgate regulations for the management of the Foundation refers to the routine procedures of administration necessary for the operations of any agency. It does not refer to the broad policy issues of grant administration—which are the concern of the Board. It does not involve the Commissioner in the active management of the Foundation, which is the responsibility of the Director by delegation from the Board.

The Committee intends that the Board will be comprised of individuals broadly representative of the general public and the educational community, as well as individuals with fresh and progressive views who are selected for their contributions to innovation and reform in various areas of American life. The fact that the legislation mandates that at least one student should be appointed to the Board should not be interpreted to mean that not more than one should receive such an appointment.

Finally, the Committee hopes that the Foundation Board and Director will seriously consider the need to award grants to other than educational institutions—such as state agencies and coordinating councils. Just as "new towns" are needed to demonstrate new patterns of urban living, so bold alternatives—such as those which have been described during the committee hearings and in the Carnegie Commission and Newman Reports—are needed in postsecondary education.

The National Institute of Education

On March 3, 1970, the President, in his message on educational reform, indicated his concern about the state of educational research and the concomitant lack of understanding of basic educational processes.

> We must stop pretending that we understand the mystery of the learning process, or that we are significantly applying science and technology to the techniques of teaching—when we spend less than one half of one percent of our educational budget on research, compared with 5% of our health budget and 10% of defense.

The Administration proposed the establishment of a National Institute of Education to focus and expand the national effort in educational research and experimentation. Legislation proposing the authorization for the establishment of a National Institute of Education was introduced in the 91st and 92d Congresses.

RATIONALE

The need for a quantum jump in research and development has been recognized in many quarters. The President, in his message also observed that "the outcome of schooling—what children learn—is profoundly different for different groups of children and different parts of the country. Although we do not seem to understand just what it is on one school or school system that produces a different outcome from another, one conclusion is inescapable: we do not yet have equal educational opportunity in America."

The National Institute of Education is designed to overcome the present deficiencies of educational research and development, and to mount a massive effort to devise solutions to the most pressing problems in education today. Present deficiencies include insufficient resources, fragmentation, and a failure to translate research results into methods and materials usable, and in use, by practitioners in the field. The Institute will replace the functions of the Office of Education authorized by the Cooperative Research Act.

PROGRAM

The establishment of the Institute reflects the Committee's awareness that putting financial resources into our schools is not enough. The need to understand the effects of education, to be able to control outcomes, is pressing. Accordingly, the Institute, while it will be concerned with basic research, also has a mandate to employ its resources to help the nation's schools to solve their most urgent problems. The Institute must be involved in the prompt development of alternate educational models, models which will help parents, students, and the public at large to secure accountability in the schools. New models are needed for effective forms of local participation and control, and far more perceptive measures of learning than we now have. The National Institute of Education is intended to take the lead in designing these new measurements of educational output. In doing so, it should pay as much heed to what are termed the "immeasurables" of schooling such as responsibility, wit and humanity as it does to verbal and mathematical development.

In order to achieve these objectives, the National Institute of Education will engage in both basic and applied research. The Committee is deeply concerned that these research processes not be carried out in isolation from the perceived needs and problems of educational practitioners, of students, of parents, and of the public. Dissemination, viewed merely as conveying information on research results, has proved itself a dismal failure. The traditional isolation of the research community from practitioners in the field must bear a heavy responsibility for this state of affairs. In order that the National Institute of Education's work not fail in the same way, research and development must be part of a continual feedback mechanism whereby the views of those with an active stake in our schools are solicited and taken into account at every stage of the research process. Task forces, appointed either to develop the National Institute of Education's agenda or to work in already identified areas should include among their members persons with direct experience in the schools, and should

have as part of their mandate the continual effort to communicate with others involved directly in the schools and in alternate forms of education.

As important to the success of the National Institute of Education as its communications network, will be its ability to appoint research teams that are interdisciplinary in nature. Traditionally, educational research has remained the preserve of a limited group of academic disciplines. This narrow base has severely limited the capacity of educational research to analyze and solve problems. The National Institute of Education must take the lead in drawing a wide variety of disciplines and interests into the work of developing ways to solve education's problems and fulfill its promises. It must develop formats both within the university community and within the Institute itself whereby scholars from disciplines as varied as biology, statistics, anthropology, sociology, pharmacology or political science can make the special insights of their field work together in solving problems. It will not be enough to merely bring such scholars together; new methods will be needed to bridge the communications gap between disciplines and to sustain such collaboration once established. The problems confronting education today are sufficiently complex that no single isolated approach can hope to succeed in providing answers.

In addition to using the variety of resources within the university, the National Institute of Education must also look beyond the university to those who have a stake in education, whose needs have not been well served, and whose concerns have not been heard by the traditional research community. Students, parents, dropouts and adults, who wish to resume their education, are among those who must be brought into the educational research process.

The Committee intends that the function of the Institute be educational research and development, and no provision is made for the support of operational projects, as such.

Successful federally funded development projects have been continued for a number of years because other sources of funding have not been readily available. It is the intention of the Committee that developmental projects last no longer than three years. If, after three years, such a project is found to be successful and merits continuation, another source of funding should be located. Indeed, it is expected that successful research will generate requests for legislative authority from the Office of Education to fund the activity as an operational program.

ORGANIZATION OF THE INSTITUTE

The Committee has designed the National Institute of Education's council to insure that it will be a strong and active force in the affairs of the Institute. The council will consist of fifteen members appointed by the President with staggered, three year terms. The President is also authorized to appoint ex-officio members who are officers of the United States, in order to insure that the experience of other agencies with similar mandates be available to the National Institute of Education. The ex-officio members' presence on the council will also encourage coordination and prevent duplication of effort between the National Institute of Education and other agencies such as the Office

of Education, the National Science Foundation, the National Institute of Health, the Office of Child Development, the Office of Science and Technology, and the Office of Economic Opportunity. It is expected that the Deputy Commissioner of Education is to be a member of the Council. Section 404(b)(1) stipulates that the ex-officio members are not to be voting members as the Committee wishes to maintain the council as a fully autonomous and independent body.

In accordance with section 404(b)(3), the council is expected to set general policy guidelines and to continually review the conduct of the Institute. It is the Committee's intent that this Council be active in determining the direction and monitoring the performance of the new Institute. To that end, section 404(b)(3)(E) authorizes the Council to submit reports in addition to the annual report required in the event that the council determines that the President and Congress should be expeditiously informed of developments concerning the Institute.

While the Committee desired a strong Council to set broad policy directives, it has given the Commissioner broad executive powers to build and maintain a vigorous new agency. The Committee has made the Commissioner responsible, through the Director, for the organization and management of the Institute. The Director, as the Commissioner's delegate, will be responsible for seeing that the Council's general policy mandates are effectively translated into the Institute's operations, and for anticipating the future needs of the agency. The Director will be an Executive Level 5; he will have a Deputy at G.S. Level 18, who will assist the Director in his responsibilities and will serve to insure continuity of direction during the absence or disability of the Director.

Section 404(d)(2) authorizes the Commissioner to appoint and compensate without regard to the civil service or classification laws, technical or professional personnel for terms not to exceed three years. In addition, section 404(d)(2) permits the Commissioner to appoint and compensate no more than one-fifth of the Institute's regular full-time technical and professional employees without regard to such laws.

The Administration's bill requested authority to appoint and compensate "excepted" professional and technical personnal without limitation. The Committee agrees that, because of the agency's special research and development mission, some limited provision should be made for the appointment of excepted personnel. However, the Committee takes the view that departures from the civil service system should be made with caution. Therefore, it has adopted a limited provision, permitting exceptions only for the short-term and small portion of, professional and technical personnel.

The Institute is charged with the delicate task of planning and implementing research and development strategies designed to help solve education's critical problems. The Committee believes that its success will depend in large measure on its ability to enlist the assistance of exceptionally talented individuals, whose special expertise can be brought to bear in new ways on educational problems. A variety of special personnel arrangements will be needed to attract such people on a non-career basis. Some will work on short-term task forces, some

will plan programs and return to the field to implement them, some will conduct inhouse research for a specified time period.

It is intended that most of the regular staff of the Institute be in the career civil service. However, additional authority to appoint some regular professional and technical employees on an excepted basis is provided. This authority is provided on the same rationale that has won exception authority for other Federal research and development agencies such as the National Science Foundation and the National Institute of Health. Effective research and development requires the presence of people not easily recruited to government service: first rate highly creative researchers engaged at the frontiers of knowledge. Civil service procedures make it difficult to hire top scholars whose habits of independence disincline them to tolerate the delay that can accompany normal hiring procedures. In addition, exemption from the compensation standards of the Civil Service will allow the Director the flexibility of offering competitive salaries in order to attract first rate personnel.

CAREER EDUCATION

The Committee added to the definition of educational research specific language making it explicit that career education is a part of the Institute's role. Cognizant of the tremendous importance of career education the Committee recommends the special mention of career education as part of the Institute's mandate. The Committee notes that the Office of Education has begun to recognize the need for research and development in this area and expects the new Institute to assume this effort.

AUTHORIZATION

Section 404(e) authorizes the appropriation of a single sum, $550 million, without fiscal year limitation; funds will be available until expended. The Committee finds two important advantages in this funding arrangement:

1. It will eliminate the annual rush to spend funds remaining at the end of the fiscal year, which has too often in the past encouraged the funding of weak and ill planned projects.

2. It will allow the Institute sufficient flexibility to make long term commitments when such a commitment is necessary for a project's success. Educational research has too often been subject to abrupt shifts in direction; as a consequence, promising avenues of research have not been adequately followed through. The National Institute of Education will have the ability to make these necessary long term research commitments; it must also develop the capacity to continually monitor and subject to critical review the commitments thus undertaken.

National Institute of Education—Projected budget through fiscal year 1975

[Amount in millions]

Fiscal year:	
1973	$150
1974	180
1975	220

This initial proposal represents a relatively modest increment over current funding levels and an expansion of the operations of the Institute at a rate of approximately 20 percent a year. Though this seems like a small ration, research and development experiences in other fields have shown the 20 percent growth rate to be near the limit that institutions can soundly accommodate.

The 1973 budget includes about $37,500,000 in new appropriation requests and a transfer of $112,500,000 in funds used for current office of Education programs.

RESEARCH WITHIN THE OFFICE OF EDUCATION

The National Institute of Education is intended to be, upon its establishment, the sole educational research agency of the Federal Government. One of the most compelling arguments in support of the Institute was that which called for a coordinated, fresh approach to educational research. Coordination in this highly complex field will be difficult, if not impossible unless it is conducted under the direction of a single director. For this reason, the research authority of the Office of Education will be limited to research which is associated with operational programs, and which is administered by the units responsible for the operational program. There will be no research unit or division as such in the Office of Education.

During its consideration of educational research policy, the Committee was informed by the Office of Education that (1) the Institute was needed because the Cooperative Research Act was inadequate, and (2) the Office of Education needed the authority of the Cooperative Research Act. The Committee found these two positions mutually inconsistent. Legislative oversight indicated that the Cooperative Research Act was utilized primarily for demonstrations of favored and vogueish approaches to education problems. Highly trumpeted grants were made for programs (such as the experimental schools) which were short on quality research, but for which other funding was unavailable. Indeed, it appears that the Cooperative Research Act has been used as a general discretionary fund. The close association of the so-called "research program" with the flexible funding under the Education Professions Development Act confirms earlier indications that the Cooperative Research Act and all other flexible programs are considered to be discretionary funds of the Commissioner to be used on whatever "priority" program happens to be favored for any particular year by the Office of Management and Budget. The Committee wishes to make clear that it maintains the policy stated in its reports in 1968 and 1969 that (1) education policy is to be established by law, and (2) the Commissioner is to carry out that policy.

Section 301 of the bill does grant the Commissioner some survey, research, and demonstration authority. For that purpose $25 million is authorized for each of the fiscal years 1973, 1974, and 1975. That authority is expected to be used in connection with that of section 401 and part B of the General Education Provisions Act for—

(1) surveys in education, primarily statistical operations;

(2) dissemination; and

(3) research in connection with programs otherwise authorized by law.

That authority is not to be used to duplicate any of the activities of the National Institute of Education or those otherwise authorized by law; nor is it to be used to avoid requesting authorizing language for any activity from the Congress.

The Committee understands that the Office of Education intends to initiate "centers for educational renewal", yet it finds no statutory authority for such a program; nor does it have before it any legislation requesting such authority. The only conclusion to be drawn from this situation is that the Cooperative Research Act is again to be used for a purpose other than research. The repeal of sections 2 and 3 of that Act will prevent a reoccurrence of a long series of actions which are beyond the intent of that Act.

TITLE IV—INDIAN EDUCATION

In 1968 the special Subcommittee on Indian Education of the Committee on Labor and Public Welfare was established, and funded by a Senate Resolution, to examine, investigate, and make a complete study of any and all matters pertaining to the education of Indian children.

That subcommittee held hearings in all parts of the country, visited schools, examined studies and reports, and heard testimony from Indians, Government officials, and others with relevant expertise. In seven volumes of subcommittee hearings and five volumes of committee prints, the subcommittee documented the full details of the failure of Federal and State programs and policies relating to Indian education.

In November 1969 the subcommittee issued its final report entitled "Indian Education: A National Tragedy—A National Challenge" (S. Rept. 91-501), which recommended a number of legislative measures to raise Indian education to an exemplary level. The primary recommendation in that report was: "That there be presented to the Congress a comprehensive Indian education act to meet the special education needs of Indians both in the Federal schools and in the public schools." Title IV of the bill is a vital first step in responding to this recommendation.

Title IV establishes three new programs: the first would assist local educational agencies in meeting the special needs of Indian students and in maintaining and operating their schools; the second would provide funds for special programs and projects to improve Indian educational opportunities; and the third would support the improvement of adult Indian education. A Bureau of Indian Education in the Office of Education and a National Advisory Council on Indian Education also would be established.

SCOPE OF PROBLEM AND NEED

There are currently almost 200,000 Indians, Eskimos, and Aleuts in this nation's public schools. This constitutes over 70 percent of the total Indian student population, the remaining children being enrolled in private schools and schools run by the Bureau of Indian Affairs. In three states—South Dakota, Alaska, and New Mexico—Indian en-

SECTION-BY-SECTION ANALYSIS OF THE "EDUCATION AMENDMENTS OF 1971"

(S. 659, as proposed to be amended by the Committee Amendment)

S. 659, which contains five titles, proposes to amend the Higher Education Act of 1965, the Vocational Education Act of 1963, the General Education Provisions Act, the Elementary and Secondary Education Act of 1965, Public Law 874 of the Eighty-first Congress, and related Acts, in order to extend authorizations of appropriations therein and to revise and improve such Acts.

Section 1.—Short Title and Table of Contents

This section (1) states that the Act may be cited as the "Education Amendments of 1971" and (2) sets forth a table of contents describing the Act as follows:

TABLE OF CONTENTS

Sec. 2. General provisions

TITLE I—HIGHER EDUCATION

PART A—COMMUNITY SERVICE AND CONTINUING EDUCATION PROGRAMS

Sec. 101. Extension of authorization of appropriations.
Sec. 102. Special programs and projects relating to national and regional problems.
Sec. 103. Metropolitan area programs.
Sec. 104. Evaluation of activities.

PART B—COLLEGE LIBRARY PROGRAMS

Sec. 111. Authorization of appropriations.
Sec. 112. Waiver of maintenance of effort requirement.
Sec. 113. Increase in maximum amount of supplemental grants.
Sec. 114 Authorization of appropriations for college and research library resources.
Sec. 115. Evaluation and report.

PART C—DEVELOPING INSTITUTIONS; EMERGENCY ASSISTANCE TO INSTITUTIONS OF HIGHER EDUCATION

Sec. 121. Extension of authorization for title III.
Sec. 122. Revision of title III (strengthening developing institutions).
Sec. 123. Emergency assistance for institutions of higher education.

Section 205.—Residential Vocational Schools

Part E of the Vocational Education Act of 1963 authorizes three programs related to residential vocational education schools:

(1) grants to State Boards of Education and other educational agencies, organizations or institutions for the establishment and maintenance of demonstration residential vocational education schools;

(2) grants to States for State-operated residential vocational education schools; and

(3) grants to reduce borrowing costs with respect to the construction of vocational education schools and dormitories.

This section extends for one year the authorizations of appropriations for such programs.

Section 206.—Consumer and Homemaking Education

Part F of the Vocational Education Act of 1963 authorizes grants to States for support of consumer and homemaking education programs. This section extends for one year the authorization of appropriations for such programs.

Section 207.—Cooperative Vocational Education

Part G of the Vocational Education Act of 1963 authorizes grants to assist the States with cooperative Work-Study Programs, in which students attend school and at the same time are employed in jobs related to the vocation for which they are training. This section extends for one year the authorization of appropriations for such part G.

Section 208.—Vocational Work-Study Programs

Part H of the Vocational Education Act of 1963 authorizes grants to States for Work-Study Programs for vocational education students, in order to provide such students with employment the earnings from which will enable those students to begin or continue a program of vocational education. This section extends the authorization of appropriations for the Work-Study Program for one year.

Section 209.—Curriculum Development

Part I of the Vocational Education Act of 1963 authorizes grants and contracts for the development of curricula for vocational education programs. This section extends the authorization of appropriations for such part I for one year.

TITLE III—ESTABLISHMENT OF A NATIONAL FOUNDATION FOR POSTSECONDARY EDUCATION AND A NATIONAL INSTITUTE OF EDUCATION

This title amends the General Education Provisions Act (title IV of Public Law 90–247)—

(1) to create a new organic Act for the Office of Education,

(2) to establish a National Foundation for Postsecondary Education, and

(3) to establish a National Institute of Education.

Section 301.—Amendment to the General Education Provisions Act

This section amends the General Education Provisions Act by redesignating the present parts A, B, and C thereof as parts B, C, and D, and inserting a new part A in such Act, which creates within the Department of Health, Education, and Welfare an Education Division which is composed of a reestablished Office of Education, a National Foundation for Postsecondary Education, and a National Institute of Education. The head of the Education Division shall be the Commissioner of Education.

AMENDMENT TO THE GENERAL EDUCATION PROVISIONS ACT

Subsection (a) of section 301 contains the substantive amendments of such section. Clause (1) of subsection (a) makes preparatory redesignations. Parts A, B, and C of the General Education Provisions Act and the sections thereof are appropriately redesignated, thereby creating a position for a new part A created by clause (2) of such section 301(a), which provides as follows:

PART A—EDUCATION DIVISION OF THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

This part establishes an Education Division within the Department of Health, Education, and Welfare. Part A constitutes the entire organic authority for such Division.

Section 401. (The Education Division). This section provides that there shall be within the Department of Health, Education, and Welfare an Education Division, which shall be composed of the Office of Education, the National Foundation for Postsecondary Education, and the National Institute of Education, and shall be headed by the Commissioner of Education.

Section 402. (The Office of Education). This section creates a new organic Act for the Office of Education. It establishes the Office of Education and makes provision for officers for the management of the Office of Education.

Subsection (a) of such section 402 constitutes the establishment provision for the Office of Education.

The first sentence of such subsection (a) states that the purpose and duties of the Office of Education shall be to collect statistics and facts showing the condition and progress of education in the United States, and to disseminate such information respecting the organization and management of schools and school systems, and methods of teaching, as shall aid the people of the United States in the establishment and maintenance of efficient school systems, and otherwise promote the cause of education throughout the country.

The second sentence of subsection (a) makes clear that nothing in section 402, or in any other provision of law, grants to the Office of Education any authority which is not expressly provided for by statute or implied in a statute. Such second sentence is included to make clear that nothing in law shall be construed to grant any inherent authority, and that the Commissioner may only carry out those functions and duties which are imposed upon him by law. The term "implied" as

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applied to a statute must be read to mean that any implied authority must reasonably be necessary in order to carry out any expressed authority in a statute.

Subsection (b) of such section 402 makes provision for the management of the Office of Education.

Paragraph (1) of such subsection (b) entrusts the authority for the management of the Office of Education to a Commissioner of Education. Such managerial authority is subject to the direction and supervision of the Secretary of Health, Education, and Welfare. The Commissioner shall be appointed by the President by and with the advice and consent of the Senate. The Commissioner shall serve at the pleasure of the President.

Paragraph (2) provides that there shall be a Deputy Commissioner of Education who shall be appointed by the President by and with the advice and consent of the Senate. The Deputy Commissioner shall serve at the pleasure of the President. The Deputy Commissioner shall perform such duties as the Commissioner shall prescribe by regulation, and he shall serve as Commissioner during the absence or disability of the Commissioner, or in the event of a vacancy in the Office of Commissioner.

Paragraph (3) of such subsection (b) makes provision for compensation of the Commissioner of Education and the Deputy Commissioner of Education. The Commissioner shall be compensated at the rate specified for level IV of the Executive Schedule in section 5315 of title 5 of the United States Code. The Deputy Commissioner of Education shall be compensated at the rate specified for level V of the Executive Schedule in section 5316 of title 5 of the United States Code.

Paragraph (4) of such section 402(b) provides that the Commissioner and the Deputy Commissioner may not engage in any other business, vocation, or employment while serving in any such position; nor may either of them, except with the express approval of the President in writing, hold any office in, or act in any capacity for, or have a financial interest in, any organization, agency, or institution to which the Office of Education makes a grant or with which it makes a contract or other financial arrangement.

Paragraph (5) of such section 402(b) creates within the Office of Education six additional positions which shall be placed in grade 18 of the General Schedule set forth in section 5332 of title 5, United States Code. Such additional positions shall be in addition to the number of positions placed in grade 18 under section 5108 of title 5 of the United States Code. These positions are in addition to the number of positions placed in grade 18 of the General Schedule in the Office of Education at the time of the enactment of section 402.

Section 403. (National Foundation for Postsecondary Education).—This section establishes a National Foundation for Postsecondary Education, provides for its management, and sets forth its powers, functions, and duties.

Subsection (a) of such section 403 provides that the National Foundation for Postsecondary Education shall consist of a Postsecondary Education Board and a Director. Such subsection also provides that the Foundation shall have only such authority as may be invested therein by section 403 or delegated thereto by the Commissioner. The Foundation shall be subject to general regulations promulgated by the Commissioner respecting its management. Such

subsection (a) also states the purposes of the Foundation. Those purposes are—

(1) to encourage excellence, innovation, and reform in postsecondary education;

(2) to provide assistance for the design and establishment of innovative structures for providing postsecondary education and innovative modes of teaching and learning therein;

(3) to expand the ways and patterns of acquiring post secondary education and to open opportunities for such education to individuals of all ages and circumstances;

(4) to strengthen the autonomy, individuality, and sense of mission of postsecondary educational institutions, and to support programs which are distinctive or of special value to American society; and

(5) to encourage postsecondary educational institutions to develop policies, programs, and practices responsive to social needs, and to provide an organization concerned with the rationalization of public policies toward postsecondary education.

Subsection (b) of section 403 relates to the appointment and powers of the Postsecondary Education Board.

Paragraph (1) of such subsection (b) relates to appointment of members of the Board. The first sentence of such paragraph (1) provides that the Board shall consist of fifteen members who shall be appointed by the President by and with the advice and consent of the Senate, the Director of the Foundation, and such other ex officio members who are officers of the United States as the President may designate. At least one of the appointed members must be a student at the time of his appointment.

The second sentence of such paragraph (1) states that a quorum shall consist of eight appointed members. Ex officio members may not be counted for purposes of a quorum.

The third sentence of such paragraph (1) provides that the President shall appoint the Chairman of the Board from among the appointed members of the Board.

The fourth sentence of such paragraph (1) prohibits ex officio members voting on any business of the Board.

Paragraph (2) of section 403(b) relates to the term of office of appointed members of the Board. With two exceptions, the term of office of appointed members of the Board shall be six years. The exceptions to the six-year term of office are (1) in the case of any member appointed to fill a vacancy, and (2) in the case of initial members. Any member appointed to fill a vacancy among the appointed members of the Board shall serve only such portion of a term as shall not have been expired at the time of such appointment. Of the initial members of the Board, five shall serve for terms of four years and five for terms of two years.

The second sentence of such paragraph (2) provides that any person whose term of office is subject to paragraph (2) of section 403(b), who has been a member of the Board for six consecutive years, shall be, after the end of any such six-year period, ineligible for appointment to the Board for two years following the expiration of such six-year period.

Paragraph (3) of such section 403(b) sets forth the powers and duties of the Board. The first sentence of such paragraph provides

that, subject to such general regulations of the Commissioner as are promulgated for the management of the Foundation, the Board shall—

(1) establish general policies for, and review the conduct of, the Foundation.

(2) meet at the call of the Chairman of the Board, except that it shall meet (i) at least four times during each fiscal year, or (ii) whenever one-third of the members request a meeting in writing, in which event one-third of the members (excluding ex officio members) shall constitute a quorum;

(3) submit an annual report to the President on the activities of the Foundation and the status of postsecondary education in the United States, which (i) shall include such recommendations and comments as the Board may deem appropriate, and (ii) shall be submitted to the Congress not later than March 31 of each year, and

(4) make and submit to the President and the Congress such other reports as it may deem necessary.

The second sentence of such paragraph (3) provides that the Board shall have responsibility for the general policies of the Foundation.

The third sentence of such paragraph (3) directs the Director to make available to the Board such information and assistance as may be necessary to enable the Board to carry out its functions.

Subsection (c) of section 403 relates to the Director of the Foundation for Postsecondary Education and his subordinates.

Paragraph (1) of such subsection (c) provides that the Director of the Foundation shall be appointed by the President by and with the advice of the Senate, and shall serve at the pleasure of the President. The Director shall be compensated at the rate specified for level V of the Executive Schedule under section 5316 of title 5 of the United States Code. The Director shall perform such duties and exercise such powers as the Board, subject to general regulations of the Commissioner, may prescribe.

Paragraph (2) of such subsection (c) relates to the Deputy Director of the Foundation for Postsecondary Education. The first sentence of such paragraph (2) provides that there shall be a Deputy Director of the Foundation who shall be appointed by the President and shall serve at the pleasure of the President.

The second sentence of paragraph (2) controls the compensation for the Deputy Director. The Deputy Director shall be compensated at the rate specified for grade 18 of the General Schedule set forth in section 5332 of title 5, United States Code.

The third sentence of paragraph (2) relates to the functions of the Deputy Director. He shall exercise such powers as the Director may prescribe, and he shall serve as Director during the absence or disability of the Director, or in the event of a vacancy in the Office of Director.

The fourth sentence of paragraph (2) states that the position of Deputy Director created in paragraph (2) shall be in addition to the number of positions placed in grade 18 of the General Schedule under section 5108 of title 5 of the United States Code.

Paragraph (3) of section 403(c) creates three additional positions within the Foundation which shall be placed in grade 18 of the General Schedule set forth in section 5332 of title 5, United States Code. Such additional positions shall be in addition to the number of posi-

tions placed in grade 18 under section 5108 of title 5, United States Code.

Subsection (d) of section 403 sets forth the authority of the Foundation to make grants and contracts. Such authority includes grants to, and contracts with, institutions of higher education (including combinations of such institutions) and other public and private nonprofit educational institutions and agencies to improve postsecondary educational opportunities by—

(1) encouraging the reform, innovation, and improvement of postsecondary education, and providing equal educational opportunity for all;

(2) the creation of institutions and programs involving new paths to career and professional training, and new combinations of academic and experiential learning;

(3) the establishment of institutions and programs based on the technology of communications;

(4) the carrying out in postsecondary educational institutions of changes in internal structure and operations designed to clarify institutional priorities and purposes;

(5) the design and introduction of cost-effective methods of instruction and operation;

(6) the introduction of institutional reforms designed to expand individual opportunities for entering and reentering institutions and pursuing programs of study tailored to individual needs;

(7) the introduction of reforms in graduate education, in the structure of academic professions, and in the recruitment and retention of faculties; and

(8) the creation of new institutions and programs for examining and awarding credentials to individuals, and the introduction of reforms in current institutional practices related thereto.

Subsection (e) of section 403 provides that in carrying out his responsibilities under section 403, the Director shall have the authority—

(1) to enter into contracts without performance or other bonds, and without regard to section 3709 of the Revised Statutes (41 U.S.C. 5);

(2) to make advance, progress, and other types of payments without regard to the provisions of section 3648 of the Revised Statutes (31 U.S.C. 529);

(3) to receive money and other property which has been donated, bequeathed, or devised to the Foundation with or without condition or restriction, including a condition that the Foundation use other funds for the purposes of the gift; and to use, sell, or otherwise dispose of such property for the purposes of this section;

(4) to publish or arrange for the publication of information without regard to the provisions of section 501 of title 44, United States Code;

(5) to accept and utilize the services of voluntary and uncompensated personnel, notwithstanding the provisions of section 3679(b) of the Revised Statutes (31 U.S.C. 665(b)), and to provide transportation and subsistence as authorized by section 5703 of title 5;

(6) to arrange with, and reimburse, the heads of other Federal agencies for the performance of any activity which the Foundation is authorized to conduct and;

(7) to appoint, for terms not to exceed three years, and compensate, without regard to the civil service or classification laws, such technical or professional employees of the Foundation as he deems necessary to accomplish its functions, and also to appoint and compensate without regard to such laws not to exceed one-fifth of the number of full-time, regular technical or professional employees of the Foundation.

Subsection (f) of section 403 authorizes appropriations. Such subsection authorizes to be appropriated $250,000,000 in the aggregate for the period beginning July 1, 1972, and ending June 30, 1975, to carry out the functions of the Foundation. Such sums are to be appropriated without fiscal year limitations. Sums appropriated pursuant to subsection (f) shall remain available for the purposes of the Foundation until expended, notwithstanding any other provision of law, unless enacted in express limitation of section 403(f).

Section 404. (National Institute of Education). This section establishes a National Institute of Education, contains provisions relating to its management, and authorizes it to make grants and contracts.

Subsection (a) of section 404 contains two paragraphs, the first of which provides that the National Institute of Education shall consist of a National Council on Educational Research and a Director of the Institute. The Institute shall have only such authority as may be invested in the Institute by section 404, and shall be subject to general regulations of the Commissioner promulgated by him for its management.

Paragraph (2) of section 404(a) provides that, in accordance with the provisions of section 404, the Institute shall seek to improve education, including career education, in the United States by—

(1) helping to solve or to alleviate the problems of, and achieve the objectives of, American education;

(2) advancing the practice of education as an art, science, and profession;

(3) strengthening the scientific and technological foundations of education; and

(4) building an effective educational research and development system.

Subsection (b) of section 404 relates to the National Council on Educational Research. Paragraph (1) of such subsection (b) relates to members of the Council. The first sentence of such paragraph (1) provides that the Council shall consist of fifteen members appointed by the President by and with the advice and consent of the Senate, the Director, and such other ex officio members who are officers of the United States as the President may designate.

The second sentence of paragraph (1) provides that eight appointed members shall constitute a quorum. Ex officio members may not be counted for purposes of a quorum.

The third sentence of such paragraph (1) provides that the Chairman of the Council shall be designated by the President. The Chairman must be one of the appointed members.

The fourth sentence of paragraph (1) excludes ex officio members of the Council from voting on any business of the Council.

Paragraph (2) of section 404(b) relates to the term of office of appointed members of the Council. With two exceptions, the term of office of appointed members of the Council shall be three years. The exceptions to the three-year term of office are (1) in the case of any member appointed to fill a vacancy, and (2) in the case of initial members. Any member appointed to fill a vacancy among the appointed members of the Council shall serve only such portion of a term as shall not have been expired at the time of such appointment. Of the initial members of the Council, five shall serve for terms of two years and five for terms of one year.

The second sentence of such paragraph (2) provides that any person whose term of office is subject to paragraph (2) of section 404(b), who has been a member of the Council for six consecutive years, shall be, after the end of any such six-year period, ineligible for appointment to the Council for two years following the expiration of such six-year period.

Paragraph (3) of section 404(b), in the first sentence thereof, provides that the Council shall, subject to general regulations of the Commissioner promulgated for the management of the Institute—

(1) establish general policies for, and review the conduct of, the Institute;

(2) review, and advise the Commissioner on the status of, educational research in the United States;

(3) meet at the call of the Chairman, except that it shall meet (i) at least six times during each fiscal year, or (ii) whenever one-third of the members request a meeting in writing, in which event one-third of the members (excluding ex officio members) shall constitute a quorum;

(4) submit an annual report to the President on the activities of the Institute, and on educational research in general, which (i) shall include such recommendations and comments as the Council may deem appropriate, and (ii) shall be submitted to the Congress not later than March 31 of each year; and

(5) make and submit to the President and the Congress such other reports as it may deem necessary.

The second sentence of such paragraph (3) vests the responsibility for the general policies of the Institute in the Council.

The third sentence of such paragraph (3) directs the Director of the Institute to provide the Council with such information and assistance as may be necessary to enable it to carry out its functions.

Subsection (c) of section 404 relates to the Director of the Institute and its officers. Paragraph (1) of such subsection (c) relates to the appointment of, compensation for, and duties of the Director of the Institute. The first sentence of such paragraph (1) provides that the Director of the Institute shall be appointed by the President by and with the advice of the Senate, and that the Director shall serve at the pleasure of the President.

The second sentence of such paragraph (1) provides that the Director shall be compensated at the rate specified for level V of the Executive Schedule under section 5316 of title 5, United States Code. The Director shall perform such duties and exercise such powers and authorities as the Council, subject to general regulations of the Commissioner, may prescribe.

Paragraph (2) of such subsection (c) relates to the Deputy Director of the Institute. The first sentence of paragraph (2) states that there shall be a Deputy Director of the Institute who shall be appointed by the President and who shall serve at the pleasure of the President.

The second sentence of such paragraph (2) provides that the Deputy Director shall be compensated at the rate specified for grade 18 of the General Schedule set forth in section 5332 of title 5, United States Code. The Deputy Director shall act for the Director during the absence or disability of the Director, and shall exercise such powers and authorities as the Director may prescribe.

The third sentence of paragraph (2) states that the position of Deputy Director created in paragraph (2) shall be in addition to the number of positions placed in grade 18 of the General Schedule under section 5108 of title 5 United States Code.

Paragraph (3) of section 404(c) creates three additional positions within the Institute which shall be placed in grade 18 of the General Schedule set forth in section 5332 of title 5, United States Code. Such additional positions shall be in addition to the number of positions placed in grade 18 under section 5108 of title 5, United States Code.

Subsection (d) of section 404 relates to the authority of the Institute. Paragraph (1) of such subsection (d) authorizes the Commissioner, through the Institute, to conduct educational research; collect and disseminate the findings of educational research; train individuals in educational research; assist and foster such research, collection, dissemination, or training through grants, or technical assistance to, or jointly financed cooperative arrangements with, public or private organizations, institutions, agencies, or individuals; promote the coordination of such research and research support within the Federal Government; and to construct or provide (by grant or otherwise) for such facilities as he determines may be required to accomplish such purposes. As used in subsection (d), the term "educational research" includes research, planning, surveys, evaluations, investigations, experiments, developments, and demonstrations in the field of education (including career education).

Paragraph (2) of such subsection (d) authorizes the Commissioner to appoint for terms not to exceed three years, and compensate without regard to the civil service or classification laws, such technical or professional employees of the Institute as he finds necessary to accomplish the purposes of the Institute. Such paragraph (2) also authorizes the Commissioner to appoint and compensate without regard to the civil service or classification laws not to exceed one-fifth of the number of full-time, regular technical or professional employees of the Institute.

Subsection (e) of section 404 authorizes appropriations. Such subsection authorizes to be appropriated $550 million in the aggregate for the period beginning July 1, 1972, and ending June 30, 1975, to carry out the functions of the Institute. Sums appropriated pursuant to subsection (e) shall remain available for the purposes of the Institute until expended, notwithstanding any other provision of law, unless enacted in express limitation of section 404(e).

CONFORMING PROVISIONS

Subsection (*b*) of section 301 contains conforming provisions and amendments related to the amendment made by subsection (a) of section 301. Paragraph (1) of such subsection (b) provides that the amendment made by subsection (a) of section 301 shall be effective after June 30, 1972.

Paragraph (*2*) of subsection (b) contains conforming amendments related to the organic Act of the Office of Education.

Subparagraph (*A*) of paragraph (2) repeals sections 516 and 517 (the organic law of the Office of Education) of the Revised Statutes of the United States. This repealer is effective July 1, 1972.

Subparagraph (*B*) amends, effective July 1, 1972, section 422 of the General Education Provisions Act by changing a crossreference to the organic law of the Office of Education.

Paragraph (*3*) of subsection (b) contains transitional language transferring the functions of the Secretary of Health, Education, and Welfare, with respect to the Office of Education and the Commissioner of Education, to the reestablished Office of Education under section 402 of the General Education Provisions Act.

Paragraph (*4*) of subsection (b) strikes out sections 2 and 3 of the Cooperative Research Act effective July 1, 1972.

Paragraph (*5*) of subsection (b) amends, effective July 1, 1972, section 421 of the General Education Provisions Act by adding a new subsection (d). Such new subsection (d) authorizes, in paragraph (1) thereof, the Commissioner to make grants to, and contracts with, public and nonprofit private agencies, institutions and organizations for the dissemination of information, for surveys, and for exemplary projects in the field of education, and for the conduct of studies related to the management of the Office of Education.

Paragraph (2) of the new subsection (d) authorizes to be appropriated $25,000,000 each for fiscal years 1973, 1974, and 1975.

TITLE IV—INDIAN EDUCATION

This title amends Public Law 874 of the Eighty-first Congress, the Elementary and Secondary Education Act of 1965, the Adult Education Act, and related Acts to revise, consolidate, and improve legislative authority for the education of Indians.

PART A—REVISION OF IMPACTED AREAS PROGRAM AS IT RELATES TO INDIAN CHILDREN

Section 401.—Amendments to Public Law 874, Eighty-First Congress

This section revises Public Law 874 of the Eighty-first Congress as it relates to Indian children, by inserting a new title III to provide financial assistance to local educational agencies for the education of Indian children, and deleting from the definition of Federal property under such Public Law the language relating to Indian lands.

CREATION OF A NEW TITLE III OF PUBLIC LAW 874, EIGHTY-FIRST CONGRESS

Subsection (*a*) of section 401 redesignates the present title III of Public Law 874, Eighty-first Congress as title IV, makes appropriate redesignations of section numbers, and inserts a new title III, which entitles local educational agencies to financial assistance for programs and projects designed to meet the special educational needs of Indian children. The amount of the financial assistance to which local educational agencies are entitled is based on a computation of the number of Indian children for whom the local educational agency is providing free public education, and the amount of the average per-pupil expenditure for free public education in the United States. Such new title III contains the following provisions:

TITLE III—FINANCIAL ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES FOR THE EDUCATION OF INDIAN CHILDREN

Section 301. (*Short Title*). This section provides that title III of Public Law 874, Eighty-first Congress, as added by section 401(a) of the bill, may be cited as the "Indian Elementary and Secondary School Assistance Act".

Section 302. (*Declaration of Policy*). This section states a declaration of national policy with respect to the special educational needs of Indian children, and directs the Commissioner to carry out a program to meet these needs.

Subsection (a) of such section 302 states that in recognition of the special educational needs of Indian children in the United States, Congress hereby declares it to be a policy of the United States to provide financial assistance to local educational agencies to develop and carry out elementary and secondary school programs specially designed to meet these special educational needs.

Subsection (b) of such section 302 directs the Commissioner, in order to effectuate the policy set forth in subsection (a) of section 302, to carry out a program of making grants to local educational agencies which are entitled to payments under title III, and which have submitted, and have had approved, applications therefor, in accordance with the provisions of title III.

Subsection (b) of section 302 entitles local educational agencies to grants in amounts computed under section 303. A local educational agency becomes eligible for the grant to which it is entitled when its application therefor is approved under section 305; such approval vests the entitlement with the local educational agency.

Section 303. (*Grants to Local Educational Agencies*). This section sets forth the method by which the amounts of grants to which local educational agencies are entitled are to be computed. Subsection (a) relates to entitlements for local educational agencies, while subsection (b) authorizes other grants under special circumstances.

Subsection (a) of section 303 provides for a determination of the number of Indian children which forms the basis for payments to local educational agencies and of the amount which is to be paid for each child counted.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

HIGHER EDUCATION ACT OF 1965

(Public Law 89–329)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Higher Education Act of 1965".

TITLE I—COMMUNITY SERVICE AND CONTINUING EDUCATION PROGRAMS

APPROPRIATIONS AUTHORIZED

SEC. 101. For the purpose of assisting the people of the United States in the solution of community problems such as housing, poverty, government, recreation, employment, youth opportunities, transportation, health, and land use by enabling the Commissioner to make grants under this title to strengthen community service programs of colleges and universities, there are authorized to be appropriated [1] [$25,000,000 for the fiscal year ending June 30, 1966, $50,000,000 for the fiscal year ending June 30, 1967, and for the succeeding fiscal year, $10,000,000 for the fiscal year ending June 30, 1969, $50,000,000 for the fiscal year ending June 30, 1970, and $60,000,000 for the fiscal year ending June 30, 1971.] *$60,000,000 for the fiscal year ending June 30, 1972, and for each of the succeeding fiscal years ending prior to July 1, 1975.*

DEFINITION OF COMMUNITY SERVICE PROGRAM

SEC. 102. For purposes of this title, the term "community service program" means an educational program, activity, or service, including a research program and a university extension or continuing education offering, which is designed to assist in the solution of community problems in rural, urban, or suburban areas, with particular empahsis on urban and suburban problems, where the institution offering such program, activity, or service determines—

(1) that the proposed program, activity, or service is not otherwise available, and

[1] Amendment effective July 1, 1971.

2nd" Senate Committee Report

Calendar No. 576

92D CONGRESS
2d Session

SENATE

REPORT
No. 92-604

EDUCATION AMENDMENTS OF 1972

FEBRUARY 7, 1972.—Ordered to be printed

Mr. PELL, from the Committee on Labor and Public Welfare, submitted the following

REPORT

[To accompany the Message of the House of Representatives on S. 659]

The Committee on Labor and Public Welfare, to which was referred the Message of the House of Representatives on S. 659, An Act to amend the Higher Education Act of 1965, the Vocational Educational Act of 1963, the General Education Provisions Act (creating a National Foundation for Postsecondary Education and a National Institute of Education), the Elementary and Secondary Education Act of 1965, Public Law 874, Eighty-first Congress, and related Acts, and for other purposes, having considered the same, reports favorably thereon and recommends that the Senate agree to the amendment of the House of Representatives with an amendment in the nature of a substitute.

BACKGROUND

S. 659, the "Education Amendments of 1971", was passed by the Senate on August 6, 1971. The House of Representatives considered and passed a comparable measure (H.R. 7248), the "Higher Education Act of 1971", on November 4, 1971, having amended the bill to include language comparable with S. 1557, the "Emergency School Aid and Quality Integrated Education Act" (which had separately passed the Senate April 26, 1971). S. 659 was then taken up by the House of Representatives and, after substituting the language of H.R. 7248 as so amended, the House passed the Act of the Senate. On November 8, 1971 the House insisted on its amendment to S. 659 and asked for a conference.

On November 24, 1971, the Senate, by unanimous consent, referred the message of the House of Representatives on S. 659 to the Committee on Labor and Public Welfare.

★(Star Print) 65-011

The Committee met in executive session on December 3, 1971 and considered the message of the House, together with amendments to S. 659 which had been printed and referred to the Committee. The Committee recommends that the Senate agree to the amendment of the House of Representatives with a substitute amendment. The substitute amendment recommended by the Committee contains the following provisions:

(1) Titles I, II, III, V, and VI are identical, except for technical and clerical corrections, with titles I, II, III, IV, and V of S. 659, the "Education Amendments of 1971" as passed by the Senate August 6, 1971 (51 yeas, 0 nays).

(2) Title IV is identical, except for conforming changes, with S. 2482, the "Indian Education Act", which passed the Senate on October 8, 1971 (57 yeas, 0 nays).

(3) Title VII is identical, except for conforming changes, with S. 1557, the "Emergency School Aid and Quality Integrated Education Act" which passed the Senate April 26, 1971 (74 yeas, 8 nays).

(4) Title VIII contains provisions which are comparable with those contained in S. 390, the "United States Foreign Service Scholarship Program Act", on which the Committee on Foreign Affairs and the Committee on Labor and Public Welfare have reported (S. Repts. No. 92-104 and 92-236; Calendar No. 229).

(5) Title IX contains language designed to clarify Federal education law with respect to the assignment and transportation of of students and teachers in order to overcome racial imbalance.

Description of the Committee Amendment

Senate Reports No. 92-346, No. 92-384, No. 92-61, and Nos. 92-104 and 92-236 contain the considerations, recommendations, and analyses of the Committee with respect to titles I through VIII of the Committee amendment; and those reports contain illustrations of changes in existing law proposed in such titles; therefore, the Committee, in order to avoid reprinting Senate reports, incorporates those reports into this report to the extent such reports are applicable to the Committee amendment. A description is included in this report in order to facilitate Senate consideration of the message of the House of Representatives, and, when necessary, to report to the Senate further considerations and recommendations of the Committee.

TITLE I—HIGHER EDUCATION

This title amends, revises, and extends the Higher Education Act of 1965. Portions of the National Defense Education Act of 1958, the Higher Education Facilities Act of 1963, and the International Education Act of 1966 are incorporated into the Higher Education Act of 1965 with the result that, if the Committee amendment is enacted, the Higher Education Act of 1965 would constitute a single Federal law which includes all continuing higher education financial assistance programs. In general, unless otherwise specified, title I extends the authorizations for higher education programs for four

The new title X provides for State wide plans for postsecondary educational opportunities through community colleges and authorizes grants for—

(1) the establishment of New Community Colleges;
(2) the expansion of present community colleges;
(3) the lease of facilities.

Part J—Law School Clinical Experience Programs

This part extends and makes minor changs in the program to encourage law schools to provide clinical experience in the law.

TITLE II—VOCATIONAL EDUCATION

This title extends for three years those authorizations for appropriations for programs under the Vocational Education Act of 1963 which expire June 30, 1972. The Vocational Education Act of 1963 is also amended—

(1) to clarify the definition of vocational education, with respect to industrial arts, and to include volunteer firemen; and
(2) to create, within the Office of Education a Bureau of Occupational, Career, and Adult Education.

TITLE III—ESTABLISHMENT OF A NATIONAL FOUNDATION FOR POSTSECONDARY EDUCATION AND A NATIONAL INSTITUTE OF EDUCATION

This title establishes an Education Division within the Department of Health, Education, and Welfare which is headed by the Commissioner of Education. The Education Division will include the present office of Education and the newly created National Foundation for Postsecondary Education and the newly created National Institute of Education.

TITLE IV—INDIAN EDUCATION

This title amends Public Law 874, Eighty-first Congress and the Elementary and Secondary Education Act of 1965 with respect to Indian children. The title also amends the Adult Education Act to authorize special projects for Indians and makes miscellaneous amendments Part D of title IV establishes, within the Office of Eduaction, a Bureau of Indian Education to administer the newly established programs.

TITLE V—MISCELLANEOUS

This title, other than minor and technical amendments—

(1) provides for uniform application requirements;
(2) extends title III of the National Defense Education Act of 1958 for four years;
(3) requires a study of and report on regulations and guidelines issued by the Office of Education.
(4) amends the Elementary and Secondary Education Act of 1965, authorizing an Ethnic Studies Centers Program;
(5) establishes a Consumers' Education Program;

Public Law 92-318
92nd Congress, S. 659
June 23, 1972

An Act

To amend the Higher Education Act of 1965, the Vocational Education Act of 1963, the General Education Provisions Act (creating a National Foundation for Postsecondary Education and a National Institute of Education), the Elementary and Secondary Education Act of 1965, Public Law 874, Eighty-first Congress, and related Acts, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Education Amendments of 1972". Education Amendments of 1972.

86 STAT.235
86 STAT.236

GENERAL PROVISIONS

SEC. 2. (a) As used in this Act—

(1) the term "Secretary" means the Secretary of Health, Education, and Welfare; and "Secretary."

(2) the term "Commissioner" means the Commissioner of Education; "Commissioner."

unless the context requires another meaning.

(b) Unless otherwise specified, the redesignation of a section, subsection, or other designation by any amendment in this Act shall include the redesignation of any reference to such section, subsection, or other designation in any Act or regulation, however styled.

(c)(1) Unless otherwise specified, each provision of this Act and each amendment made by this Act shall be effective after June 30, 1972, and with respect to appropriations for the fiscal year ending June 30, 1973, and succeeding fiscal years. Effective dates.

(2) Unless otherwise specified, in any case where an amendment made by this Act is to become effective after a date set herein, it shall be effective with the beginning of the day which immediately follows the date after which such amendment is effective.

(3) In any case where the effective date for an amendment made by this Act is expressly stated to be effective after June 30, 1971, such amendment shall be deemed to have been enacted on July 1, 1971.

TITLE I—HIGHER EDUCATION

PART A—COMMUNITY SERVICE AND CONTINUING EDUCATION PROGRAMS

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS

SEC. 101. (a) Section 101 of the Higher Education Act of 1965 is amended by striking out all that follows "authorized to be appropriated" and inserting in lieu thereof the following: "$10,000,000 for the fiscal year ending June 30, 1972, $30,000,000 for the fiscal year ending June 30, 1973, $40,000,000 for the fiscal year ending June 30, 1974, and $50,000,000 for the fiscal year ending June 30, 1975.". 79 Stat. 1219; 82 Stat. 1035. 20 USC 1001.

(b) The amendment made by subsection (a) shall be effective after June 30, 1971. Effective date.

SPECIAL PROGRAMS AND PROJECTS RELATING TO NATIONAL AND REGIONAL PROBLEMS

SEC. 102. (a)(1) Sections 106, 107, 108, 109, 110, and 111 of the Higher Education Act of 1965, and all references thereto, are redesignated as sections 107, 108, 109, 110, 111, and 112, respectively. Title I of such Act is amended by inserting after section 105 the following new section: 20 USC 1006-1011. 20 USC 1005.

RESIDENTIAL VOCATIONAL SCHOOLS

SEC. 204. (a) Section 151(b) of the Vocational Education Act of 1963 is amended by striking out "the succeeding fiscal year" and inserting in lieu thereof "each of the succeeding fiscal years ending prior to July 1, 1975". 82 Stat. 1082. 20 USC 1321.

(b) Section 152(a)(1) of such Act is amended by striking out "July 1, 1972" and inserting in lieu thereof "July 1, 1975". 84 Stat. 189. 20 USC 1322.

(c) Section 153(d)(2) of such Act is amended by striking out "July 1, 1971" and inserting in lieu thereof "July 1 of each of the four succeeding fiscal years". 20 USC 1323.

CONSUMER AND HOMEMAKING EDUCATION

SEC. 205. (a) Section 161(a)(1) of the Vocational Education Act of 1963 is amended by striking out "the fiscal year ending June 30, 1972" and inserting in lieu thereof "each of the succeeding fiscal years ending prior to July 1, 1975". 20 USC 1341.

(b) Section 161(c) of such Act is amended by strik[illegible] and the two succeeding" and inserting in lieu thereof "and the five succeeding".

COOPERATIVE VOCATIONAL EDUCATION

SEC. 206. Section 172(a) of the Vocational Education Act of 1963 is amended by striking out "the fiscal year ending June 30, 1972" and inserting in lieu thereof "each of the succeeding fiscal years ending prior to July 1, 1975". 20 USC 1352.

WORK-STUDY PROGRAMS

SEC. 207. Section 181(a) of the Vocational Education Act of 1963 is amended by inserting after "June 30, 1972," the following: "and for each of the succeeding fiscal years ending prior to July 1, 1975,". 20 USC 1371.

CURRICULUM DEVELOPMENT

SEC. 208. Section 191(b) of the Vocational Education Act of 1963 is amended by striking out "July 1, 1972" and inserting in lieu thereof "July 1, 1975". 20 USC 1391.

NATIONAL ADVISORY COUNCIL

SEC. 209. Section 104(a)(4) of the Vocational Education Act of 1963 is amended by striking out "two" and inserting in lieu thereof "five". 20 USC 1244.

TITLE III—AMENDMENTS RELATING TO THE ADMINISTRATION OF EDUCATION PROGRAMS

AMENDMENT TO THE GENERAL EDUCATION PROVISIONS ACT

SEC. 301. (a) The General Education Provisions Act (title IV of Public Law 90-247) is amended— 81 Stat. 814; 82 Stat. 1094; 84 Stat. 164. 20 USC 1221 note.

(1) by redesignating parts A, B, and C thereof, and all references thereto, as parts B, C, and D and redesignating sections 401, 402, 403, 404, 405, 406, 411, 412, 413, 414, 415, 416, 417, 421, 422, 423, 424, 425, 426, 431, 432, 433, 434, 435, 436, 437, 438, and all references thereto, as sections 400, 411, 412, 413, 414, 415, 421, 422, 423, 424, 425, 426, 427, 431, 432, 433, 434, 435, 436, 441, 442, 443, 444, 445, 446, 447, and 448, respectively; and 20 USC 1221, 1231, 1233. 20 USC 1221-1233g.

(2) by inserting after section 400 (as redesignated by clause (1)) the following new part:

"PART A—EDUCATION DIVISION OF THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

"THE EDUCATION DIVISION

"SEC. 401. There shall be, within the Department of Health, Education, and Welfare, an Education Division which shall be composed of the Office of Education and the National Institute of Education, and shall be headed by the Assistant Secretary for Education.

"ASSISTANT SECRETARY FOR EDUCATION

"SEC. 402. (a) There shall be in the Department of Health, Education, and Welfare an Assistant Secretary for Education, who shall be appointed by the President by and with the advice and consent of the Senate. The Assistant Secretary for Education shall be compensated at the rate specified for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

80 Stat. 461; 83 Stat. 864.

"(b) The Assistant Secretary shall be the principal officer in the Department to whom the Secretary shall assign responsibility for the direction and supervision of the Education Division. He shall not serve as Commissioner of Education or as Director of the National Institute of Education on either a temporary or permanent basis.

"THE OFFICE OF EDUCATION

"SEC. 403. (a) The purpose and duties of the Office of Education shall be to collect statistics and facts showing the condition and progress of education in the United States, and to disseminate such information respecting the organization and management of schools and school systems, and methods of teaching, as shall aid the people of the United States in the establishment and maintenance of efficient school systems, and otherwise promote the cause of education throughout the country. The Office of Education shall not have authority which is not expressly provided for by statute or implied therein.

"(b)(1) The management of the Office of Education, shall, subject to the direction and supervision of the Secretary, be entrusted to a Commissioner of Education, who shall be appointed by the President by and with the advice and consent of the Senate, and who shall serve at the pleasure of the President.

"(2) The Commissioner may not engage in any other business, vocation, or employment while serving in any such position; nor may he, except with the express approval of the President in writing, hold any office in, or act in any capacity for, or have a financial interest in, any organization, agency, or institution to which the Office of Education makes a grant or with which it makes a contract or other financial arrangement.

"SUPPORT FOR IMPROVEMENT OF POSTSECONDARY EDUCATION

"SEC. 404. (a) Subject to the provisions of subsection (b), the Secretary is authorized to make grants to, and contracts with, institutions of postsecondary education (including combinations of such institutions) and other public and private educational institutions and agencies (except that no grant shall be made to an educational institution or agency other than a nonprofit institution or agency) to improve postsecondary educational opportunities by providing assistance to such educational institutions and agencies for—

"(1) encouraging the reform, innovation, and improvement of postsecondary education, and providing equal educational opportunity for all;

"(2) the creation of institutions and programs involving new paths to career and professional training, and new combinations of academic and experimental learning;

"(3) the establishment of institutions and programs based on the technology of communications;

"(4) the carrying out in postsecondary educational institutions of changes in internal structure and operations designed to clarify institutional priorities and purposes;

"(5) the design and introduction of cost-effective methods of instruction and operation;

"(6) the introduction of institutional reforms designed to expand individual opportunities for entering and reentering institutions and pursuing programs of study tailored to individual needs;

"(7) the introduction of reforms in graduate education, in the structure of academic professions, and in the recruitment and retention of faculties; and

"(8) the creation of new institutions and programs for examining and awarding credentials to individuals, and the introduction of reforms in current institutional practices related thereto.

"(b) No grant shall be made or contract entered into under subsection (a) for a project or program with any institution of postsecondary education unless it has been submitted to each appropriate State Commission established under section 1202 of the Higher Education Act of 1965, and an opportunity afforded such Commission to submit its comments and recommendations to the Secretary. Ante, p. 324.

"(c) For the purposes of this section, the authority granted to the Commissioner in part D of this Act shall apply to the Secretary. Ante, p. 326.

"(d) The Secretary may appoint, for terms not to exceed three years, without regard to the provisions of title 5 of the United States Code governing appointments in the competitive service, not more than five technical employees to administer this section who may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates. 5 USC 101 et seq. 5 USC 5101, 5331, 5332 note.

"(e) There are authorized to be appropriated $10,000,000 for the fiscal year ending June 30, 1973, $50,000,000 for the fiscal year ending June 30, 1974, and $75,000,000 for the fiscal year ending June 30, 1975, for the purposes of this section. Appropriations.

"NATIONAL INSTITUTE OF EDUCATION

"SEC. 405. (a) (1) The Congress hereby declares it to be the policy of the United States to provide to every person an equal opportunity to receive an education of high quality regardless of his race, color, religion, sex, national origin, or social class. Although the American educational system has pursued this objective, it has not yet attained that objective. Inequalities of opportunity to receive high quality education remain pronounced. To achieve quality will require far more dependable knowledge about the processes of learning and education than now exists or can be expected from present research and experimentation in this field. While the direction of the education system remains primarily the responsibility of State and local governments, the Federal Government has a clear responsibility to provide leadership in the conduct and support of scientific inquiry into the educational process.

"(2) The Congress further declares it to be the policy of the United States to—

"(i) help to solve or to alleviate the problems of, and promote the reform and renewal of American education;

"(ii) advance the practice of education, as an art, science, and profession;

"(iii) strengthen the scientific and technological foundations of education; and

"(iv) build an effective educational research and development system.

Establishment.

"(b)(1) In order to carry out the policy set forth in subsection (a), there is established the National Institute of Education (hereinafter referred to as the 'Institute') which shall consist of a National Council on Educational Research (referred to in this section as the 'Council') and a Director of the Institute (hereinafter referred to as the 'Director'). The Institute shall have only such authority as may be vested therein by this section.

"(2) The Institute shall, in accordance with the provisions of this section, seek to improve education, including career education, in the United States through—

"(A) helping to solve or to alleviate the problems of, and achieve the objectives of American education;

"(B) advancing the practice of education, as an art, science, and profession;

"(C) the strengthening of the scientific and technological foundations of education; and

"(D) building an effective educational research and development system.

Members.

"(c)(1) The Council shall consist of fifteen members appointed by the President, by and with the advice and consent of the Senate, the Director, and such other ex officio members who are officers of the United States as the President may designate. Eight members of the Council (excluding ex officio members) shall constitute a quorum. The Chairman of the Council shall be designated from among its appointed members by the President. Ex officio members shall not have a vote on the Council.

"(2) The term of office of the members of the Council (other than ex officio members) shall be three years, except that (A) the members first taking office shall serve as designated by the President, five for terms of three years, five for terms of two years, and five for terms of one year, and (B) any member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed. Any appointed member who has been a member of the Council for six consecutive years shall thereafter be ineligible for appointment to the Council during the two-year period following the expiration of such sixth year.

"(3) The Council shall—

"(A) establish general policies for, and review the conduct of, the Institute;

"(B) advise the Assistant Secretary and the Director of the Institute on development of programs to be carried out by the Institute;

"(C) present to the Assistant Secretary and the Director such recommendations as it may deem appropriate for the strengthening of educational research, the improvement of methods of collecting and disseminating the findings of educational research and of insuring the implementation of educational renewal and reform based upon the findings of educational research;

"(D) conduct such studies as may be necessary to fulfill its functions under this section;

"(E) prepare an annual report to the Assistant Secretary on the current status and needs of educational research in the United States;

"(F) submit an annual report to the President on the activities of the Institute, and on education and educational research in general, (i) which shall include such recommendations and comments as the Council may deem appropriate, and (ii) shall be submitted to the Congress not later than March 31 of each year; and Report to President and Congress.

"(G) meet at the call of the Chairman, except that it shall meet (i) at least four times during each fiscal year, or (ii) whenever one-third of the members request in writing that a meeting be held.

The Director shall make available to the Council such information and assistance as may be necessary to enable the Council to carry out its functions.

"(d)(1) The Director of the Institute shall be appointed by the President, by and with the advice and consent of the Senate, and shall serve at the pleasure of the President. The Director shall be compensated at the rate provided for level V of the Executive Schedule under section 5316 of title 5, United States Code, and shall perform such duties and exercise such powers and authorities as the Council, subject to the general supervision of the Assistant Secretary, may prescribe. The Director shall be responsible to the Assistant Secretary and shall report to the Secretary through the Assistant Secretary and not to or through any other officer of the Department of Health, Education, and Welfare. The Director shall not delegate any of his functions to any other officer who is not directly responsible to him. Director. 80 Stat. 463; 83 Stat. 864.

"(2) There shall be a Deputy Director of the Institute (referred to in this section as the 'Deputy Director') who shall be appointed by the President and shall serve at the pleasure of the President. The Deputy Director shall be compensated at the rate provided for grade 18 of the General Schedule set forth in section 5332 of title 5, United States Code, and shall act for the Director during the absence or disability of the Director and exercise such powers and authorities as the Director may prescribe. The position created by this paragraph shall be in addition to the number of positions placed in grade 18 of the General Schedule under section 5108 of title 5, United States Code. 5 USC 5332 note. 80 Stat. 453; 84 Stat. 1955.

"(e)(1) In order to carry out the objectives of the Institute, the Director is authorized, through the Institute, to conduct educational research; collect and disseminate the findings of educational research; train individuals in educational research; assist and foster such research, collection, dissemination, or training through grants, or technical assistance to, or jointly financed cooperative arrangements with, public or private organizations, institutions, agencies, or individuals; promote the coordination of such research and research support within the Federal Government; and may construct or provide (by grant or otherwise) for such facilities as he determines may be required to accomplish such purposes. As used in this subsection, the term 'educational research' includes research (basic and applied), planning, surveys, evaluations, investigations, experiments, developments, and demonstrations in the field of education (including career education). Research.

"(2) Not less than 90 per centum of the funds appropriated pursuant to subsection (h) for any fiscal year shall be expended to carry out this section through grants or contracts with qualified public or private agencies and individuals.

"(3) The Director may appoint, for terms not to exceed three years, without regard to the provisions of title 5 of the United States Code governing appointment in the competitive service and may compensate without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, such technical or professional employees of the Institute as he deems necessary to accomplish its functions and also appoint and compensate without regard to such provisions not to exceed one-fifth of the number of full-time, regular technical or professional employees of the Institute.

5 USC 101 et seq.

5 USC 5101, 5331, 5332 note.

"(f)(1) The Director, in order to carry out the provisions of this section, is authorized—

Rules and regulations.

"(A) to make, promulgate, issue, rescind, and amend rules and regulations governing the manner of operation of the Institute;

"(B) to accept unconditional gifts or donations of services, money or property, real, personal or mixed, tangible or intangible;

"(C) without regard to section 3648 of the Revised Statutes of the United States (31 U.S.C. 529), United States Code, to enter into and perform such contracts, leases, cooperative agreements or other transactions as may be necessary for the conduct of the Institute's work and on such terms as he may deem appropriate with any agency or instrumentality of the United States, or with any State, territory or possession, or with any political subdivision thereof, or with any international organization or agency, or with any firm, association, corporation or educational institution, or with any person, without regard to statutory provisions prohibiting payment of compensation to aliens;

"(D) to acquire (by purchase, lease, condemnation or otherwise), construct, improve, repair, operate and maintain laboratories, research and testing facilities, computing devices, communications networks and machinery, and such other real and personal property or interest therein as deemed necessary;

"(E) to acquire (by purchase, lease, condemnation or otherwise) and to lease to others or to sell such property in accordance with the provisions of the Federal Property and Administrative Services Act, patents, copyrights, computing programs, theatrical and broadcast performance rights or any form of property whatsoever or any rights thereunder; and

63 Stat. 377. 40 USC 471 note.

"(F) to use the services, computation capacity, communications networks, equipment, personnel, and facilities of Federal and other agencies with their consent, with or without reimbursement. Each department and agency of the Federal Government shall cooperate fully with the Director in making its services, equipment, personnel and facilities available to the Institute.

"(2) All laborers and mechanics employed by contractors or subcontractors on all construction projects assisted under this title shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5). The Secretary of Labor shall have with respect to the labor standards specified in this section the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. 133z-15) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276(c)).

49 Stat. 1011.

64 Stat. 1267. 5 USC app.

63 Stat. 108.

"(g) Where funds are advanced for a single project by more than one Federal agency for the purposes of this section, the National Institute of Education may act for all in administering the funds advanced.

"(h) There are hereby authorized to be appropriated, without fiscal year limitations, $550,000,000, in the aggregate, for the period beginning July 1, 1972, and ending June 30, 1975, to carry out the functions of the Institute. Sums so appropriated shall, notwithstanding any other provision of law unless enacted in express limitation of this subsection, remain available for the purposes of this subsection until expended.". Appropriation.

(b)(1) The amendments made by subsection (a) shall be effective after June 30, 1972. Effective date.

(2)(A) Effective July 1, 1972, sections 516 and 517 of the Revised Statutes of the United States (20 U.S.C. 1, 2) are repealed. Repeals.

(B) Effective July 1, 1972, section 422 of the General Education Provisions Act is amended by striking out "(as set forth in section 516 of the Revised Statutes (20 U.S.C. 1))" and inserting in lieu thereof "(as set forth in section 403(a) of this Act)". Ante, p. 326.

LIMITATIONS ON AUTHORITY

SEC. 302. (a) Section 421 of the General Education Provisions Act (as so redesignated by section 301(a)(1)) is amended by adding at the end thereof the following:

"(c)(1)(A) Except in the case of a law which—

"(i) authorizes appropriations for carrying out, or controls the administration of, an applicable program, or

"(ii) is enacted in express limitation of the provisions of this paragraph,

no provision of any law shall be construed to authorize the consolidation of any applicable program with any other program. Where the provisions of law governing the administration of an applicable program permit the packaging or consolidation of applications for grants or contracts to attain simplicity or effectiveness of administration, nothing in this subparagraph shall be deemed to interfere with such packaging or consolidation.

"(B) No provision of any law which authorizes an appropriation for carrying out, or controls the administration of, an applicable program shall be construed to authorize the consolidation of any such program with any other program unless provision for such a consolidation is expressly made thereby.

"(C) For the purposes of this subsection, the term 'consolidation' means any agreement, arrangement, or the other procedure which results in— "Consolidation."

"(i) the commingling of funds derived from one appropriation with those derived from another appropriation,

"(ii) the transfer of funds derived from an appropriation to the use of an activity not authorized by the law authorizing such appropriation,

"(iii) the use of practices or procedures which have the effect of requiring, or providing for, the approval of an application for funds derived from different appropriations according to any criteria other than those for which provision is made (either expressly or implicitly) in the law which authorizes the appropriation of such funds, or this title, or

"(iv) as a matter of policy the making of a grant or contract involving the use of funds derived from one appropriation dependent upon the receipt of a grant or contract involving the use of funds derived from another appropriation.

"(2)(A) No requirement or condition imposed by a law authorizing appropriations for carrying out any applicable program, or controlling the administration thereof, shall be waived or modified, unless

such a waiver or modification is expressly authorized by such law or by a provision of this title or by a law expressly limiting the applicability of this paragraph.

"(B) There shall be no limitation on the use of funds appropriated to carry out any applicable program other than limitations imposed by the law authorizing the appropriation or a law controlling the administration of such program; nor shall any funds appropriated to carry out an applicable program be allotted, apportioned, allocated, or otherwise distributed in any manner or by any method different from that specified in the law authorizing the appropriation.

"(3) No person holding office in the executive branch of the Government shall exercise any authority which would authorize or effect any activity prohibited by paragraph (1) or (2).

"(4) The transfer of any responsibility, authority, power, duty, or obligation subject to this title, from the Commissioner to any other officer in the executive branch of the Government, shall not affect the applicability of this title with respect to any applicable program."

(b) The heading of such section 421 is amended to read as follows:

"ADMINISTRATION OF EDUCATION PROGRAMS".

Ante, p. 332.

(c) The provisions of section 421(c) of the General Education Provisions Act shall be effective upon the date of enactment of this Act. No provision of any law which is inconsistent with such section 421(c) shall be effective nor shall any such provision control to the extent of such inconsistency, unless such a law is enacted after the date of enactment of this Act.

AMENDMENTS TO THE COOPERATIVE RESEARCH ACT

Effective date.
68 Stat. 533; 79 Stat. 44.
20 USC 331 note.

SEC. 303. (a) Effective July 1, 1972, the Cooperative Research Act is amended—

(1) in section 2 by striking out paragraph (3) of subsection (a) and subsections (b) and (c) and by amending paragraph (1) of subsection (a) to read as follows:

"SEC. 2. (a)(1). In order to assist the Commissioner in carrying out the purpose and duties of the Office of Education, the Commissioner is authorized, during the period beginning July 1, 1972, and ending June 30, 1976, to make grants to, and contracts with, public and private institutions, agencies, and organizations for the dissemination of information, for surveys, for exemplary projects in the field of education, and for the conduct of studies related to the management of the Office of Education, except that no such grant may be made to a private agency, organization, or institution other than a nonprofit one.": and

20 USC 332.

(2) by striking out section 3 of such Act and inserting in lieu thereof the following;

Appropriations.

"SEC. 3. There are authorized to be appropriated for purposes of section 2, $58,000,000 for the fiscal year ending June 30, 1973, $68,000,000 for the fiscal year ending June 30, 1974, and $78,000,000 for the fiscal year ending June 30, 1975.".

(b) Nothing contained in the amendments made by subsection (a) shall be construed to grant the Commissioner of Education any authority which he did not have under the Cooperative Research Act prior to July 1, 1972.

EVALUATION

Ante, p. 326.

SEC. 304. Part B of the General Education Provisions Act is amended by adding at the end thereof the following new section:

"EVALUATIONS BY THE COMPTROLLER GENERAL

"SEC. 417. (a) The Comptroller General of the United States shall review, audit, and evaluate any Federal education program upon request by a committee of the Congress having jurisdiction of the statute authorizing such program or, to the extent personnel are available, upon request by a member of such committee. Upon such request, he shall (1) conduct studies of statutes and regulations governing such program; (2) review the policies and practices of Federal agencies administering such program; (3) review the evaluation procedures adopted by such agencies carrying out such program; and (4) evaluate particular projects or programs. The Comptroller General shall compile such data as are necessary to carry out the preceding functions and shall report to the Congress at such times as he deems appropriate his findings with respect to such program and his recommendations for such modifications in existing laws, regulations, procedures and practices as will in his judgment best serve to carry out effectively and without duplication the policies set forth in education legislation relative to such program. Report to Congress.

"(b) In carrying out his responsibilities as provided in subsection (a), the Comptroller General shall give particular attention to the practice of Federal agencies of contracting with private firms, organizations and individuals for the provision of a wide range of studies and services (such as personnel recruitment and training, program evaluation, and program administration) with respect to Federal education programs, and shall report to the heads of the agencies concerned and to the Congress his findings with respect to the necessity for such contracts and their effectiveness in serving the objectives established in education legislation.

"(c) In addition to the sums authorized to be appropriated under section 400(c), there are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.". Ante, p. 326.

TITLE IV—INDIAN EDUCATION

SHORT TITLE

SEC. 401. This title may be cited as the "Indian Education Act."

PART A—REVISION OF IMPACTED AREAS PROGRAM AS IT RELATES TO INDIAN CHILDREN

AMENDMENTS TO PUBLIC LAW 874, EIGHTY-FIRST CONGRESS

SEC. 411. (a) The Act of September 30, 1950 (Public Law 874, Eighty-first Congress), is amended by redesignating title III as title IV, by redesignating sections 301 through 303 and references thereto as sections 401 through 403, respectively, and by adding after title II the following new title: 64 Stat. 1100. 20 USC 236. 79 Stat. 35. 20 USC 242.

"TITLE III—FINANCIAL ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES FOR THE EDUCATION OF INDIAN CHILDREN

"SHORT TITLE

"SEC. 301. This title may be cited as the 'Indian Elementary and Secondary School Assistance Act'

92D CONGRESS 2d Session } SENATE { REPORT No. 92-798

EDUCATION AMENDMENTS OF 1972

MAY 22, 1972.—Ordered to be printed

Mr. Pell, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany S. 659]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the amendment of the House to the text of the bill (S. 659) to amend the Higher Education Act of 1965, the Vocational Education Act of 1963, the General Education Provisions Act (creating a National Foundation for Postsecondary Education and a National Institute of Education), the Elementary and Secondary Education Act of 1965, Public Law 874, Eighty-first Congress, and related acts, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the amendment of the House to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That this Act may be cited as the "Education Amendments of 1972".

GENERAL PROVISIONS

SEC. 2. (a) As used in this Act—

(1) the term "Secretary" means the Secretary of Health, Education, and Welfare; and

(2) the term "Commissioner" means the Commissioner of Education;

unless the context requires another meaning.

(b) Unless otherwise specified, the redesignation of a section, subsection, or other designation by any amendment in this Act shall include the redesignation of any reference to such section, subsection, or other designation in any Act or regulation, however styled.

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to include training for volunteer firemen and to include industrial arts programs where the Commissioner finds it appropriate. There were no comparable House provisions. The House recedes.

Extension of exemplary programs and projects.—The Senate amendment authorized appropriations for three additional years through fiscal year 1975 at the fiscal year 1972 funding level of $75,000,000 each year for vocational education exemplary programs and projects. There was no comparable House provision. The House recedes.

Authorization for residential vocational schools.—The Senate amendment authorized appropriations for three additional years through fiscal year 1975 with $75,000,000 authorized each year for demonstration residential vocational schools and $15,000,000 each year for grants to States to provide residential vocational facilities. There was no comparable House provision. The House recedes.

Consumer and homemaking education programs.—The Senate amendment authorized appropriations for three additional years through fiscal year 1975 at the fiscal year 1972 funding level of $50,000,000 for each year for consumer and homemaking education programs. There was no comparable House provision. The House recedes.

Cooperative vocational education.—The Senate amendment authorized appropriations for three additional years through fiscal year 1975 at the fiscal year 1972 funding level of $75,000,000 for each year for cooperative vocational education. There was no comparable House provision. The House recedes.

Work-study programs for vocational education students.—The Senate amendment authorized appropriations for three additional years through fiscal year 1975 at the fiscal year 1972 funding level of $45,000,000 each year for work-study programs for vocational education students. There was no comparable House provision. The House recedes.

Program of curriculum development in vocational and technical schools.—The Senate amendment authorized appropriations for three additional years through fiscal year 1975 at the fiscal year 1972 funding level of $10,000,000 for each year for program of curriculum development in vocational and technical schools. There was no comparable House provision. The House recedes.

National Advisory Council on Vocational Education.—The Senate amendment extended the authorization for an additional three years through fiscal year 1975 at the fiscal year 1972 funding level of $150,000 for each year for National Advisory Council on Vocational Education. There was no comparable House provision. The House recedes.

AMENDMENTS RELATING TO THE ADMINISTRATION OF EDUCATION PROGRAMS

Education Division.—The Senate amendment added a new part A to the General Education Provisions Act which established an Education Division within the Department of Health, Education, and Welfare and under the Commissioner of Education.

The Division was to be composed of the Office of Education, a National Foundation for Postsecondary Education, and the National Institute of Education. The House amendment had no comparable provision. The House recedes with an amendment to exclude the Senate provision for a National Foundation for Postsecondary Educa-

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tion and an amendment to give the head of such Division the title of Assistant Secretary for Education. The amendment stipulates that the Assistant Secretary may not serve as Commissioner of Education or as Director of the National Institute of Education.

Duties of the Office of Education.—The Senate amendment restated the purpose of the Office of Education and limited its authority to that expressly provided by statute and provided that "nothing in this section, or any other provision of law, shall be construed to grant the the Office of Education any authority which is not expressly provided for by statute or implied therein." The House amendment contained no comparable provision. The House recedes with technical and clarifying amendments.

Management of the Office of Education.—(a) The Senate amendment established the position of Deputy Commissioner of Education to be appointed by the President with the advice and consent of the Senate. The House amendment had no similar provision. The Senate recedes.

(b) The Senate amendment provided that the Commissioner of Education was to be compensated at the rate of a Level IV in the Executive Schedule and that the Deputy Commissioner was to be compensated at the rate of a Level V in the Executive Schedule. The House amendment had no similar provision. The Senate recedes. The conference agreement described in "Education Division" above describes the details of the conference action.

(c) The Senate amendment created six additional positions within the OE at the GS–18 level. The House bill did not contain a comparable provision. The Senate recedes.

Amendments relating to the National Foundation for Postsecondary Education.—Senate amendment authorized a program of grants; to provide assistance for the design and establishment of innovative structures for providing postsecondary education and innovative modes of teaching and learning; to expand the ways and patterns of acquiring postsecondary education and to open opportunities for such education to individuals of all ages and circumstances; to strengthen the autonomy, individuality, and sense of mission of postsecondary educational institutions, and to support programs which are distinctive or of special value to American society; and to encourage postsecondary educational institutions to develop policies, programs, and practices responsive to social needs, and to provide an organization concerned with the rationalization of public policies toward postsecondary education. A National Foundation for Postsecondary Education was established to administer this program. The Foundation was to be subject to the general regulations of the Commissioner for its management. The Foundation is authorized to make grants to, and contracts with, institutions of higher education and other public and private educational institutions and agencies to improve postsecondary educational opportunities. A total of $250,000,000 was authorized for the Foundation for use during fiscal years 1973–1975. The House amendment had no comparable provisions.

The conferees agreed to the new grant authority, but not to the creation of a new Foundation. This authority is given to the Secretary of HEW. For purposes of this new program, the Secretary is given authority under the General Education Provisions Act to appoint advisory committees. It is expected that the Secretary will do so to assist in the policymaking and administration of this new program.

He also may appoint no more than five individuals, for terms not to exceed three years without regard to the provisions of title 5 of the United States Code, to administer this program.

There is authorized to be appropriated $10,000,000 for the fiscal year 1973, $50,000,000 for the fiscal year 1974, and $75,000,000 for the fiscal year 1975, for this new program.

The Secretary is required to send copies of each application for a grant received from institutions of higher education to the appropriate State Commission (established under section 1202 of the Higher Education Act as amended by this new Act), giving the State Commission a reasonable amount of time to submit any comments and recommendations it might have. The intent of this provision is to provide the Secretary additional information to help in the decision-making process of this program.

The conferees view this program as being important to the process of change in postsecondary education and to provide those extra funds which are necessary to bring about significant innovation and reform. As such, we do not see this program supplanting in any way funds which would otherwise be available to grant recipients from Federal, State or other sources.

Purpose of the National Institute of Education.—The House amendment declared it to be the policy of the United States to provide every person an equal opportunity to receive an education of high quality regardless of race, color, religion, sex, national origin, or social class. It further stated that the Federal Government has a clear responsibility to provide leadership in the conduct and support of scientific inquiry into the educational process. The Senate amendment had no statement of purpose for the National Institute of Education. The Senate recedes.

Organization of the National Institute of Education.—The Senate amendment provided that the National Institute of Education shall consist of a Director and a National Council on Educational Research responsible for general policies with respect to the powers, duties, and authorities of the Institute. The House amendment established a position of Director and a council which is advisory in nature. The House recedes.

The conference agreement adopted the Senate amendment which established a National Council on Education Research responsible for general policies related to the Institute's powers, duties and authorities. The conferees believe that both an independent Council with decision-making authority and a strong Directorship are needed to lead a vigorous Institute. It is intended that the Director of NIE have full responsibility for specific program policies and for the management of the Institute. The Council would establish overall policies leaving to the Director decisions about programs, initiatives, and funding.

During fiscal year 1973 the Council, along with the Director, will be developing policies and procedures for the NIE. To ensure continuity of programs previously operated by the OE, we expect the Director of the NIE during fiscal year 1973 to be responsible for providing direction and leadership to these programs and projects.

Reporting relationships of the National Institute of Education Director.—The Senate amendment provided that the National Institute of Education shall be subject to general regulations of the Commissioner promulgated for its management. The House amendment pro-

vided that the Director shall perform such duties as are prescribed by the Secretary of Health, Education, and Welfare and shall be responsible to the Secretary, and not to or through any other officer of Health, Education, and Welfare. The House amendment further prohibited the Director of the National Institute of Education from delegating any of his functions to any other officer who is not directly responsible to him. Senate recedes with conforming amendments, providing that the Director will report to the Assistant Secretary for Education.

Compensation of the Director.—The Senate amendment provided that the Director is to be compensated at the rate of an executive level V position; the House amendment provided that the Director is to be compensated at the same rate as the Commissioner of Education (currently an executive level V). The House recedes.

Deputy Director.—The Senate amendment created the position of Deputy Director at the salary level of a GS–18. The House amendment ment had no similar provision. The House recedes.

Creating additional GS positions.—The Senate amendment created three additional positions at the GS–18 level in the National Institute of Education. The House amendment had no similar provision. The Senate recedes.

Function of the National Institute of Education.—The functions of the National Institute of Education outlined in the House amendment and the Senate amendment are essentially the same, except that the House language expressly provides that "research" may be either basic or applied research and the Senate language specifically includes career education within the purview of "demonstrations in the field of education". Conferees agreed on language embodying both House and Senate provisions and to the language in the House Report describing the role of the National Institute of Education relating to dissemination.

The conferees intent is that the whole complex set of dissemination/utilization functions that are desirable in this area are a major responsibility of the National Institute of Education. This set of functions should include, but not be limited to, the present and proposed fiscal year 1973 activities of NCEC (the National Center for Educational Communication) such as the following: ERIC, PREP, Publishers Alert, the three pilot state dissemination centers, the program to identify and validate exemplary products and practices. These functions also should include other dissemination activities that might be tailored to the Institute's products and programs in the future. In the transfer of NCEC to the Institute, we feel that the Director must have the opportunity to evaluate and modify existing programs to conform with the mission, functions, and program thrust of the Institute. This range of functions will provide the Institute with an array of dissemination capabilities, from the single most significant machine information retrieval system to the present system of dissemination agents in the field, who work with states, local agencies and teachers to help them apply the best of current knowledge to their problems.

Because of the transfer by the conference report of NCEC to the Institute, the Institute will need those funds and positions previously related to the NCEC. However, it should be made clear that the Director of the Institute will have the right to choose all Institute employees regardless of their prior affiliation with NCEC. Therefore,

the present NCEC slots and appropriations requests should be considered integral to the Institute. Further, the conferees intend that dissemination activities be a separate line item in the Institute budget in order to protect against future encroachment on education R&D funds

Obviously, the Office of Education must have the capability to disseminate information about its own programs and their results. The conferees expect, therefore, that the Office of Education will continue these functions with respect to the publication of information about specific categorical or formula grant programs that have been authorized by law. The conferees do not, however, intend that the Office of Education undertake the major responsibilities of dissemination, which are vested in the Institute. Joint dissemination activities are provided for in the appropriate section.

Expenditure of National Institute of Education funds.—The House amendment provided that not less than 90 per centum of the National Institute of Education's funds are to be expended through grants or contracts with qualified public or private agencies and individuals. The Senate amendment had no similar provision. The Senate recedes.

The conference agreement requires that in-house research should at no time comprise more than 10% of the total research program. To determine the application of the 90% and 10% ratio of program funds, we understand that the cost of administering the agency will be excluded from the determination of the percentage requirements.

Appointment of personnel outside of the Civil Service.—The Senate amendment allowed the Commissioner to give up to three-year appointments to professional and technical employees without regard to civil service laws, and full-time appointments to up to one-fifth of its regular technical or professional employees without regard to civil service laws. The House amendment required that officers and employees be appointed according to chapter 57 of title 5, United States Code. The House recedes.

General provisions.—The House amendment gave broad powers to the National Institute of Education to make rules and regulations; accept gifts; enter into contracts; acquire real and personal property; acquire, lease, and sell property; and use services, personnel, equipment, facilities, and so forth of other Federal agencies. The Senate amendment had no similar provisions. The Senate recedes.

Joint funding waiver authority.—The House amendment (1) provided that, where more than one Federal agency provides funds for a project, the National Institute of Education may act for all agencies in administering the funds advanced and (2) allowed other participating agencies to waive any technical grant or contract requirement which is inconsistent with similar requirements of the National Institute of Education or requirements which the National Institute of Education does not impose. There were no comparable Senate provisions. The Senate recedes on item (1) and the House on item (2).

Authorization of appropriations.—The House amendment and the Senate amendment authorized appropriations for the National Institute of Education at the following levels.

Senate amendment. $550,000,000 in the aggregate for use during fiscal years 1973, 1974, and 1975. The House recedes.

House amendment. "Such sums as necessary" for fiscal year 1972 and for each year thereafter. The House recedes.

Amendments repealing certain sections of the Cooperative Research Act.—The Senate amendment repealed sections 2 and 3 of the Cooperative Research Act, effective July 1, 1972. The House amendment had no similar provision. Senate recedes with amendments to extend the Cooperative Research Act through June 30, 1975. Section 2 of such Act is amended to include the language in the Senate provision relating to dissemination of information, surveys, exemplary projects. Authorizations are $58 million for fiscal year 1973; $68 million for fiscal year 1974 and $78 million for fiscal year 1975.

The conference foresees a limited use of the Cooperative Research Act because of the creation of the new National Institute of Education. The specific dollar authorizations reflect what the conference determines to be legitimate functions of the Office of Education. We are especially concerned that its traditional function of providing the Nation with accurate, timely and useful information and statistics about education in our country be strengthened. We expect, in accordance with information supplied by the Department of HEW, that no less than $14.9 million under the Cooperative Research Act will be spent on this function in fiscal year 1973.

It is the intention of the conferees that of the $58,000,000 authorized to be appropriated for fiscal year 1973 approximately $12,000,000 to support the Right to Read program; $17,000,000 for educational technology (including the "Sesame Street" and "Electric Company" programs) and $14,000,000 for demonstration models of career education.

The stated figures are to be viewed as maximum amounts for fiscal year 1973.

General Education Provisions Act.—(a) For fiscal years 1973, 1974, and 1975, the Senate amendment authorized the Commissioner to make grants to and contracts with public and private organizations for the dissemination of information, for surveys, for exemplary projects in the field of education, and for conduct of studies related to the management of the Office of Education. No more than $25,000,000 is authorized to be appropriated pursuant to section 401(c) of the General Education Provisions Act (salaries and expenses) for these activities for any year. There was no comparable House provision. The Senate recedes, but as explained above the new language in the Cooperative Education Act provides for these activities

(b) Further the Senate amendment prohibited unauthorized program consolidation and limitation on appropriations not specifically authorized by law and created within the Office of Education a Bureau of Elementary and Secondary Education which shall have divisions of: Compensatory Education, Bilingual Education, School Assistance in Federally Affected Areas, Assistance to States. There was no comparable House provision. House recedes with amendments which clarify and reduce to some extent the scope of the Senate provisions prohibiting certain practices in the Office of Education. The Senate recedes on that portion of this item which would have created in the Office of Education a Bureau of Elementary and Secondary Education.

The Senate amendment contained a provision which specifically prohibits unauthorized program consolidation and unauthorized limitations on the use of appropriations. The conference report contains this provision from the Senate amendment, with two modifications:

(1) Clause (iii) of subparagraph (C) of the proposed section 421(c)(1) is modified to make clear that the Commissioner's author-

ity under present law with respect to normal administrative procedures under existing education programs is not diminished. The modification of such clause is also intended to make clear that criteria governing the approval of applications may be derived by reasonable implication in the law, and such authority need not be stated expressly. It is the intention of the conferees that the basis for criteria for the approval of applications must be found in statutory law, and that criteria for which there is no such basis may not be used in the approval of applications.

(2) The second modification of this amendment changes the language of clause (iv) of such subparagraph (C). This modification consists of the inclusion of language designed to make clear that the Office of Education can not as a matter of general policy make the approval of applications under one program dependent on the approval of applications under another program. This does not preclude, however, any action on the part of the Commissioner to make an individual application under one program dependent upon the approval of an individual application under another program, if both applications come to the Commissioner from a single local educational agency.

This latter procedure is permitted on the basis of a project-by-project evaluation by the Commissioner, from which the Commissioner determines that the statutory purpose of both programs from which the appropriations are to be drawn is enhanced if their approval is joined.

The conference committee adopted a further clarifying provision which is a new sentence in subparagraph (A) of section 421(c)(1). The new sentence provides that where the provisions of law governing the administration of applicable programs permit the packaging or consolidation of applications for grants and contracts, if such procedure is for the purpose of attaining simplicity or effectiveness of administration, nothing in subparagraph (A) shall be determined to interfere with such packaging or consolidation. The conferees added this sentence in order to make clear that subparagraph (A) does not prohibit consolidation where it is specifically authorized by law. However, the conferees do not intend that this additional sentence be construed to grant the Office of Education any authority which is not already provided in existing law.

The Senate amendment contained a provision which would have established a Bureau of Elementary and Secondary Education within the Office of Education. The Conference Report does not contain such a provision.

The Senate agreed to recede from its amendment on the subject of the Bureau of Elementary and Secondary Education, after the conferees were assured by the Secretary of Health, Education, and Welfare that the Bilingual Education Program, which was intended by the Department to be in a bureau other than of elementary and secondary education, would by the end of May be transferred to the Bureau of Elementary and Secondary Education with divisional status.

(c) Specific new authority is granted in the Senate bill for an educational renewal site strategy for reform of education and for funding of the "Right to Read" program. There is no comparable House provision. The Senate recedes.

In rejecting the Senate language providing new authority for educational renewal, we do not wish to make any judgment as to the

merits of "educational renewal" at this time. However, we intend to make clear that in our view inadequate authority exists at this time to provide a legal basis for carrying out the renewal program. If the Department wishes to proceed with the Renewal concept, the Committee invites submission of appropriate legislation in order that it may be considered.

Evaluation of Office of Education programs.—The House amendment provided that upon request of a congressional committee having legislative jurisdiction, or upon request of a member of such committee, the Comptroller General shall conduct studies of existing education statutes and regulations; review the policies and practices of Federal administering agencies; review the evaluation procedures adopted by the agencies; and evaluate particular projects or programs. The Comptroller General would collect necessary data and report his findings back to the Congress, with his recommendations. Special attention was to be given to the practice of private contracting with firms, organizations, and individuals for studies and services, and the Comptroller General was directed to report his findings regarding contracting to appropriate agencies and the Congress regarding their effectiveness in serving the intent of educational legislation. The House amendment provided for the authorization of such sums as may be necessary to carry out the provisions of this title. There were no comparable Senate provisions. The Senate recedes.

INDIAN EDUCATION

The Senate amendment added a new title to the Act of September 30, 1950 (P.L. 81-874), school assistance in federally affected areas, to provide financial assistance to local educational agencies for elementary and secondary education programs to meet the special educational needs of Indian children. The amount of the grant to which a local educational agency would be entitled would be equal to the average per pupil expenditure multiplied by the number of Indian children enrolled in the agency as determined by the Commissioner. The Senate amendment also authorized the Commissioner to make grants for projects designed to test the effectiveness of programs for improving Indian educational opportunities; programs to provide educational services not available to Indian children in sufficient quality or quantity; training programs for educational personnel; and for dissemination and evaluation of the results of federally assisted programs. The amendment authorized $25,000,000 for fiscal year 1973 and $35,000,000 for each of the two succeeding fiscal years for such purposes. The Senate amendment extended the present set-asides for Indian education in the ESEA through fiscal year 1973.

The Senate amendment amended the Adult Education Act by authorizing pilot and demonstration projects, research, evaluation, and operation of adult education programs for Indians. For the purpose of making these grants, $5,000,000 would be authorized for fiscal year 1973 and $8,000,000 for each of the two succeeding fiscal years.

The Senate amendment provided for the establishment of a bureau level Office of Indian Education. The Office, headed by a Deputy Commissioner, would administer the provisions of this new title. It also created a National Advisory Council on Indian Education consisting of 15 members appointed by the President. The National

FOR IMMEDIATE RELEASE JUNE 23, 1972

Office of the White House Press Secretary

THE WHITE HOUSE

STATEMENT BY THE PRESIDENT

Today I am signing into law the Education Amendments of 1972. This legislation includes comprehensive higher education provisions, authority for a new effort to revitalize our educational research effort, and authority to provide financial assistance to school districts to meet special problems incident to desegregation.

It also contains provisions supposedly directed at limiting court decisions dealing with busing. These provisions, however, are inadequate, misleading and entirely unsatisfactory.

In March of 1970 I asked that aid to students enrolled in post-secondary institutions be expanded and redirected to assure every qualified student that he would be eligible for a combination of Federal grants and subsidized loans sufficient to make up the difference between his college costs and what his family is able to contribute. Congress has provided that opportunity, to an extent, through a program of grants for eligible students and aid from the existing Educational Opportunity Grant, College Work-Study, and National Defense and Guaranteed Student Loan programs.

Unfortunately, certain restrictions placed in the law by the Congress mean that we will not be able to realiz our principles of equity. But as confidence develops in new programs, we look forward in the near future to having a set of Federal student assistance programs devoted to the goal of equalizing opportunities for all.

The Congress has also recognized the need for a new Federal role in encouraging and facilitating reform and innovation throughout post-secondary education. To this end, I had proposed a National Foundation for Higher Education. While the Congress did not create a new agency to deal with institutional innovation, it has provided the Secretary of Health, Education, and Welfare with the authority to carry out -- on a modest scale -- the purposes I had intended for the Foundation. In future years, we may wish to reconsider the need for a statutory foundation for post-secondary education.

* One of the act's most constructive features is its establishment -- as I had requested -- of a National Institute of Education. In proposing the NIE, I expressed the expectation that when fully developed, it would be an important element in the Nation's educational system.

* The NIE will be a new research institution within the Department of Health, Education, and Welfare, with a Presidentially-appointed Director and a distinguished national advisory council. A primary purpose of the Institute is the initiation of a serious, systematic national effort to find ways to make educational opportunity truly equal -- the study of what is needed, both inside and outside the school, to ensure that our compensatory education efforts will be successful.

In the amendments dealing with the busing of public school children, however, this measure is most obviously deficient. Had these disappointing measures alone come to this office -- detached from the higher education reforms -- they would have been the subject of an immediate veto.

Some months ago, Congress was called upon to make a joint commitment with the executive, to resolve the spreading social crisis that has arisen in this nation as a result of massive court-ordered busing of public school children for the purpose of racial integration. One city after another -- South, North, East and West -- has been confronted with court orders requiring an enormous price, not simply in the well-being of the children involved but in educational funds, community tensions and community division. Because, by and large, these orders have been handed down by Federal courts, the American people looked to the Federal Government for clarification, for guidance, for relief. Congress has provided virtually none.

We asked the Congress to draw up new uniform national desegregation standards for all school districts -- South, North, East and West. The Congress determined to allow the existing inequities and injustices to remain.

We asked the Congress to provide uniform guidance to Federal judges so that court-ordered busing to integrate public school systems would be used only as a last -- never a first -- resort. The Congress apparently declines to provide such guidance.

We asked the Congress to put a limit on any future court-ordered busing of schoolchildren from kindergarten through the sixth grade. Congress refused to act. As a result future court decisions may treat the kindergarten children in the same fashion as they treat seniors in high school. That is wrong, but the Congress has thus far refused to correct the situation.

We asked the Congress for legislation granting relief for those many school districts already operating under court orders that require busing far in excess of reasonable standards. Congress has thus far provided those dozens of districts with no hope, and no relief.

We asked the Congress for a moratorium -- no more Federal court-ordered school busing until such new standards were set up and applied equally to cities South and North. Congress refused -- providing instead only a temporary stay, pending appeal, and applied only to a very limited type of court order, and only so long as litigants can manage to keep an appeal alive. It applies only to certain kinds of court orders. An adroit order-drafter may be able to prevent any effective application of this law. This action by the Congress can be construed, not unfairly, as a breathing spell designed less for the harassed school districts of this country than for Congressmen themselves.

Congress has not given us the answer we requested; it has given us rhetoric. It has not provided a solution to the problem of court-ordered busing; it has provided a clever political evasion. The moratorium it offers is temporary; the relief it provides is illusory.

Confronted with one of the burning social issues of the past decade, and an unequivocal call for action from the vast majority of the American people, the 92nd Congress has apparently determined that the better part of valor is to dump the matter into the lap of the 93rd. Not in the course of this Administration has there been a more manifest Congressional retreat from an urgent call for responsibility.

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DATE	SUBJECT	PAGE
August 4	Senate debates S. 659	S. 13163 - 13183
	Comments on NIE by:	
	Senator Pell	S. 13165
	Senator Byrd	S. 1367-8
	Senator Kennedy	S. 13180
	Minority Committee Views	S. 13171-72
August 5	Senate continues debate	S. 13308-09, 13322
August 6	Senate passed S. 659	S. 13515-73, 13611 13638-87
	Comments on NIE by:	
	Senator Beall	S. 13563-4
November 3	House debates HR 7248	H. 10288-10323
November 4	House passes HR 7248, vacates and passes S. 659 in lieu, with amendments	H. 10352-10480
	Comments on NIE by:	
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DATE	SUBJECT	PAGE
February 22	Senate:	
	Introduction of bill as passed by the House-limitations on debate set. The majority of the discussion centers on busing amendments.	S. 2310-2.2378
	Introductory comments and Title XIII on NIE duplicated	S. 2311-12 S. 2323-24
February 23	Senate:	
	Debate on busing amendments and parliamentary maneuvers continue.	S. 2434-2453
February 24	Senate:	
	Debate on busing amendments, votes taken on amendments to Mondale amendment.	S. 2541-2578
	Votes on:	S. 2577, 2578
February 25	Senate:	
	Adopted Griffin amendment barring court ordered busing and Fong amendment	S. 2636-2670
February 28	Senate:	
	Adopted amendments to other sections of the bill, dealing with assistance to higher education institutions, veteran's payments, sex discrimination, Indian education and representation of local school boards in the Advisory Commission on Inter-governmental Relations.	S. 2707-2764
February 29	Senate:	
	Further debate on busing amendments	

DATE	SUBJECT	PAGE
March 1	Senate: By 88 yeas to 6 nays, agreed to House substitute to S. 659 with amendments. Prior to passage, adopted busing amendments.	S. 3010-3035
	Vote on:	S. 3034-35
	Comments by Senator Humphrey on a Department of Education duplicated.	S. 3032-34
March 8	House: Disagreed to Senate amendments and requested a conference. Instructed conferees to insist on House anti-busing amendments. (272 yeas - 139 nays)	H. 8278-8294
May 23	Senate: Initiated debate on conference report. Motion to return to conference tabled.	S. 8278-8294
	House: Conference report filed.	
May 24	Senate: Concluded debate on conference report and agreed to it by vote of 63 yeas to 15 nays	S. 8372-8404
	Vote on:	S. 8403-04
	Comments on NIE duplicated:	
	Pell	S. 8374-5
	Javitz	S. 8375-76
	Mondale	S. 8386
	Beall	S. 8394
	Kennedy	S. 8400
	Byrd	S. 8403
June 8	House: Agreed to the conference report, 218 yeas to 180 nays	H. 5394-5447
	Vote on:	H. 5446-47

DATE	SUBJECT	PAGE
	Comments on NIE duplicated:	
	Quie	H. 5403
	Brademas	H. 5408-10
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	Perkins	H. 5422-24
	Boggs	H. 5425
	Badillo	H. 5437-38

BASIC GRANT ELIGIBILITY

[Key: A = $1,400 less expected family contribution [1] (CSS tables) B = $1,400 less expected family contribution [2] (ACT tables)]

Levels of adjusted income [3]	Number of dependent children									
	1		2		3		4		5	
	A	B	A	B	A	B	A	B	A	
$3,000	$1,400	$1,400	$1,400	$1,400	$1,400	$1,400	$1,400	$1,400	$1,400	
[illegible]	1,150	1,285	1,400	1,400	1,400	1,400	1,400	1,400	1,400	
[illegible]	455	565	860	1,050	1,130	1,315	1,300	1,400	1,420	
[illegible]	0	0	300	300	660	626	850	895	930	
$12,500	0	0	0	0	200	0	400	200	550	
$15,000	0	0	0	0	0	0	0	0	0	

[1] $1,400 less expected family contribution: From table A of the College Scholarship Service Manual, 1970-71 (CSS) 1970 Manual For Financial Aid Officers (the most commonly used need analysis system.

[2] $1,400 less expected family contribution: From 1970 revisions in the ACT student need analysis service.

[3] A definition—Parents' contribution from net income by size of family—for unconsidered cases. B definition—American college testing (ACT) need analysis system definition of income available after Federal income tax deductions but before any value for assets is ascertained.

Mr. PELL. That table clearly demonstrates the flexibility of the basic grant in connection with various family sizes and varying levels of income. For example, a child from a family with three dependent children, one of whom is in college, with an income of $10,000 would receive a grant of approximately $650. It is estimated that in the first year of operation about 1,990,000 students will be eligible for this basic grant.

The committee is keenly aware of the financial plight of institutions of higher education. Indeed, the bill contains a special provision for emergency assistance for institutions in dire straits. Mainly, however, we sought a means to provide for a continuing program of institutional aid. Many approaches for institutional aid were proposed. The committee adopted a form of aid which recognizes that increased Federal student assistance increases the burdens of the institutions accepting these students. For each student receiving a portion of the basic grant I have spoken of, the institution will receive a payment dependent upon the size of the student body. I ask unanimous consent that the table showing institutional eligibility be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

The following table governs the amount to which an institution is entitled under subpart 5:

If the total number of students in attendance is—not over 1,000; the amount of the grant is—$500 for each recipient.

Over 1,000 but not over 2,500; $400 for each recipient or, if the number of recipients is at least 100, $50,000, plus $400 for each recipient in excess of 100.

Over 2,500 but not over 5,000; $300 for each recipient or, if the number of recipients is at least 250, $110,000, plus $300 for each recipient in excess of 250.

Over 5,000 but not over 10,000; $200 for each recipient or, if the number of recipients is at least 500, $185,000, plus $200 for each recipient in excess of 500.

Over 10,000; $100 for each recipient or, if the number of recipients is at least 1,000, $235,000, plus $100 for each recipient in excess of 1,000.

Mr. PELL. Some may have noted that [illegible] education after high school need not be college work. There is a great need for quality career education. This bill recognizes that need by making the student assistance programs available to youngsters who wish to pursue postsecondary training in a technically oriented school, be it public or private for profit.

Our concern about this type of career education prompted the committee to amend a proposal calling for a "foundation on higher education" to one on "postsecondary education."

S. 659 contains the efforts of the Committee on Labor and Public Welfare to bring some order into the Federal statutes affecting education. Last year, Public Law 91-230 consolidated various laws affecting elementary and secondary education. This year's bill does the same for higher education. Title I of the bill brings together all Federal statutes affecting higher education into one statute, the Higher Education Act of 1965. It also consolidates authority presently found in the International Education Act, titles IX—education for the public service—and X—improvement of graduate programs—of the Higher Education Act and titles IV—fellowships—and VI—area language development—of the National Defense Education Act into a new title IX of the Higher Education Act covering graduate programs. Two types of graduate programs will be authorized:

First, grants to institutions to strengthen graduate programs; and

Second, fellowships for graduate and professional degrees.

Title III of the bill contains a major reshaping of the Federal approach toward education. I have long been convinced of the desirability of a single Cabinet-level Department of Education. The administration, upon taking office, called for the establishment of a National Institute of Education—to conduct educational research—and a National Foundation on Higher Education—to support innovative projects in higher education.

Accordingly, S. 659, as I originally introduced it and as presented to the Senate today, contains a provision establishing within the Department of Health, Education, and Welfare a Division of Education, headed by an upgraded Commissioner of Education who would be the equivalent of an Assistant Secretary. [illegible] Foundation for Postsecondary Education. It is hoped that new vitality will be engendered into Federal education endeavors through the establishment of this single Division. This action by the committee also reflects the support for an independent Department of Education. Indeed, this newly established Division could well be spun off into a separate department at some future date.

Mr. President, the bill before us is, I believe, one which can truly be called landmark in nature, for it establishes by law the right to a postsecondary education for all of our Nation's citizens desirous of it and capable of satisfactorily absorbing it. No longer will higher education be the province of some of us—it will be the birthright of all. I am sure that during the debate on S. 659, mention will be made of the cost of this program, and I will be the first to admit that it will be costly. But, to my mind, there is no better nor more frugal investment that a nation can make than in the education of its citizenry. A nation's true wealth or strength is measured by the sum total of the education and character of her people. In a practical sense, a better educated citizenry earns more money and pays more taxes, thereby repaying the Government's investments many times over. On a philosophical basis, the Nation with an enlightened and intelligent citizenry can surely expect to take its place in the forefront of the civilized world, better equipped to cure its own ills and assist its neighbors. I urge the Senate to consider our bill favorably.

Mr. DOMINICK. Mr. President, I take this time only to say, for the purpose of the record, that we are considering a bill which is of enormous importance to the people of our country, which involves an expenditure, as I understand it, in excess of $16 billion, which covers 4 years, and on which we have no printed report.

One of the matters we tried to work out at the beginning of the session was that we would have a 3-day report understanding. If there is a report——

Mr. PELL. Mr. President, if the Senator will yield, it is on his desk.

Mr. DOMINICK. It is on the desk?

I beg the Senate's pardon. I take it all back. I have one.

It looked like the hearing record, although I realized that the hearing record was longer than this; but here we have [illegible] individual votes.

Those of us on the committee have been attending most of the [illegible]

Senator Byrd

The bill creates a logical progression of student aid options with the assurance that every student will reach the first rung and with ample discretionary aid to enable him or her to reach the top.

The student aid provisions of this bill are consistent with and necessary to carry out the President's declaration in his March 15, 1970, message on higher education that:

> No qualified student who wants to go to college should be barred by lack of money. That has long been a great American goal. I propose that we achieve it now.

The bill before us brings us to this goal and yet as we reach this milestone I find myself looking ahead to new forms of student assistance which respond to the rising costs of postsecondary education. On July 8, I introduced S. 2233, the Post Secondary Education Finance Study Act, the provisions of which have been incorporated in S. 659 as section 140.

Section 140 of the bill requires the Secretary of Health, Education, and Welfare to conduct a comprehensive study of the financing of postsecondary education. Specifically, the Secretary is required to evaluate new forms of student aid, including loans which respond in whole or part to a borrower's future income levels.

I see such new forms of aid as perhaps a solution to the dilemma of high cost schools and lengthy courses of study, the cost of which the American taxpayer cannot reasonably be expected to pay.

I see loan repayments responsive to a borrower's income level as remedying the present problem of high repayments during a borrower's early, low income years.

I am pleased the committee incorporated the provisions of S. 2233 in S. 659, for it is necessary that we have this study to look beyond the goal we are about to reach with S. 659.

This goal is the "great American goal" to which President Nixon referred. It is a goal which requires the clearly expressed policy of the Federal Government that no qualified student should be denied the opportunity for a postsecondary education because of a lack of money. This bill states this goal clearly with solid, workable programs to carry out its intent.

The priority in this bill is clearly the students, yet we can only carry out our intent and reach our goal with the help of our institutions. They must assume the burden of our intent and the desire to reach our goal.

INSTITUTIONAL AID

The "education amendments of 1971" significantly increase the Federal responsibility in expanding educational opportunities for all Americans. The principle of assurance embodied in the new basic educational opportunity grant program requires a coincident mechanism to assist institutions ge-

The financial condition of our postsecondary education system in general, has been alternatively described as a "crisis" and a "crunch."

Whatever the proper description, there appears no easy prescription for remedying the financial malaise of our schools and colleges. Proposals for general institutional aid raise important constitutional questions. They also raise the basic question of whether the responsibility for the support of institutions should be reallocated to the Federal Government.

Throughout over 100 years of providing support for higher education, the Federal Government has always distributed its funds on the basis of the services or functions which higher education institutions perform for our society. The States in contrast have provided basic and general support to public institutions.

The question of institutional aid was of great concern to the members of the subcommittee and full committee and the resulting cost of instruction allowances provision represents not only the members' best efforts, but reflects the basic aid concept proposed by the administration in testimony by Health, Education, and Welfare Secretary Elliot Richardson before the subcommittee on June 9.

Secretary Richardson set four guidelines for judging new forms of institutional aid. His first guideline is most important to our consideration of S. 659.

Secretary Richardson said:

> First, additional aid should be related to the effort which the institutions themselves are making to fulfill a recognized national purpose. New institutional aid should—at least for the time being—carry through on commitments the Nation has already undertaken, such as equalizing opportunity, stimulating reform and innovation, sponsoring research, and encouraging specific programs, which are in the national interest.

The principle of student and assurance in this bill massively reinforces and amplifies the recognized national purpose of removing the financial barriers of post secondary education.

As we provide low-income students with funds not previously available, we require the assistance of institutions in enrolling and educating these students.

In his June 9 testimony, Secretary Richardson clearly set forth the consequence of the responsibility we are asking the institutions to assume as their part of our national purpose, he said:

> . . . low-income students are far more frequently less prepared for a traditional academic education than our students. Further, we believe that the institutions which are undertaking a major commitment to serve these students should have the additional resources necessary to redesign programs suited to the ever-widening spectrum of students entering colleges and universities.

Our subcommittee and committee agreed with the Secretary's observation and provided a cost of instruction allowance to each school based on the number of students enrolled who receive basic educational opportunity grants. The amount of the grant per basic educational opportunity grants recipient is

institutions have ... and faculty. Small schools must be encouraged to increase their enrollment of low-income students or we may someday find that we have a dual system of post-secondary education with the affluent attending high private schools and the less affluent attending large public schools. Our Nation needs a diverse system of postsecondary education. It needs our small colleges as much as our large universities, and all must pursue our national purpose of education opportunity.

In weighing the cost of instruction allowances, on a declining scale from $500 to $100 per basic educational opportunity grants recipient, it should be pointed out that for the larger schools a larger sum is allowed when the number of basic educational opportunity grants recipients reaches 10 percent of the enrollment.

The cost of instruction allowances are an essential component of this bill. The allowances insure that as we increase the demand for postsecondary education we also increase the supply. We are asking our institutions to help us carry out our responsibility. The cost of instruction allowances aid them in this, the national purpose.

INNOVATION AND REFORM

The inequality of postsecondary educational opportunity is greater than that to which we respond directly in this bill, because low-income students have less chance of finishing high school or of scoring well on conventional tests even if their ability is high.

In recent years we have begun to realize these and other education problems, which cannot be solved by money alone.

We realize now that we have much to learn about how we learn and how to teach and we need to focus on educational research and innovation. I was pleased to cosponsor the administration's bill to create a National Institute of Education and to see the Institute included in S. 659.

As a nation we are committed to providing a quality education for every American, yet we are not committed to any one curriculum or system and we must not be. The National Institute of Education should challenge all educators to seek new educational methods and concepts and improve the quality of our teaching and learning. S. 659 provides for the creation of a vital Institute overseen by a strong National Council on Educational Research.

In recognition of the magnitude of education research that must be conducted, S. 659 authorizes appropriations of $550 million over a 4-year period and this sum may well be insufficient for the task the Institute will undertake.

The need for innovation and reform transcends the entire range of education. Postsecondary education in our Nation clearly needs a new source of support for experimentation, for probing into new areas of scholarships and totally different kinds of education.

S. 659 includes the administration's proposal for a National Foundation for

... innovation.

Perhaps in years to come as we look back on this bill we shall discover that our greatest decision was to establish

...s bill. It is exciting to ... what we may derive from ... Foundation.

...E TO THE FUTURE

... Amendments of 1971" ... than "this year's educa... as a bill which lays a ...ation for the future of all ... our Nation. It provides so... problems we have studied and ...ities of problems we have per... not fully grasped. It answers ... where the answers are avail... raises questions where the an... not. It creates mechanisms to ... define, and solve problems of ... not now be aware.

... monumental measure in the ... it establishes and strengthens, ... its basic strength lies in its faith... reference to the need for diversity in ... Nation's system of postsecondary ...cation.

The future of our Nation depends in ... measure on our educational proc... Our strength as a Nation has de...ended, and shall continue to depend, on ... diversity of our people. We cannot ...ford to replace this diversity with a ...olithic education system where all Americans are taught the same subjects, ... the same fashion and in the same set...ting.

We need our small colleges and large universities. We need business and technical schools and community colleges. We need a wide range of choice so that equal educational opportunity means an equal chance for every American to choose freely among many options. That is what our country is all about.

Mr. President, this afternoon I received a letter from the Under Secretary of the Department of Health, Education, and Welfare, John Veneman. In his letter, Secretary Veneman outlines the administration's position on S. 659, the "Education Amendments of 1971." As a cosponsor and supporter of the bill, I do not agree with all that is contained in this letter. However, I do feel that it is essential to the debate that Senators be apprised of the administration's position on the pending bill. Therefore, I ask unanimous consent that Secretary Veneman's letter be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF HEALTH,
EDUCATION, AND WELFARE
Washington, D.C., Aug. 4, 1971.

Hon. WINSTON L. PROUTY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PROUTY: As the Senate prepares to take final action on S. 659, the Education Amendments of 1971, I should like to take this occasion to share with you the results of our review of the bill reported by the Committee on Labor and Public Welfare.

We are pleased that the bill incorporates several major Administration initiatives, including the targeting of student aid on the needy, creation of a National Institute of Education, a National Foundation for Postsecondary Education, and a secondary mar... [illegible] opportunities in higher education and encouraging renewal, reform and innovation in the structure of higher education.

However, there are three major aspects of S. 659 which are of great concern to the Administration and which I would like to bring to the attention of the Senate as it considers this measure:

First, the bill provides for authorization levels in excess of $6 billion in Fiscal Year 1973, the first year during which the bill would be fully effective. It is estimated that two provisions alone, regarding Basic Educational Opportunity Grants and institutional cost-of-instruction allowances, would, if fully funded, cost more than $1.6 billion in fiscal year 1973. The fiscal year 1972 appropriation for the entire Office of Education totals $5.024 billion, of which $1.344 billion is available for higher education; these sums represent increases over fiscal year 1971 of, respectively, $500 million and $370 million. We believe that the unrealistically high authorization levels set by S. 659 will foster budgetary expectations which cannot possibly be fulfilled in the near future by the Executive Branch or the Congress. This is neither wise nor humane to the students and the institutions which are awaiting action on this measure. It would be far preferable to set authorization levels closer to actual projections of need and budgetary realism.

Second, the bill authorizes several new categorical programs, including consumers' education, support for community colleges, and emergency assistance for institutions of higher education. In addition, existing authorities have been expanded in the areas of impact aid, community service and continuing education, vocational education, and graduate education. The further expansion of categorical programs runs counter to one of the missions of the proposed National Foundation for Postsecondary Education: to bring into rational ordering the great variety of programs supporting postsecondary education. The expansion of the elementary and secondary programs is also counter to the Administration's goal of consolidation at the elementary and secondary level through such proposals as Education Revenue Sharing.

Finally, several organizational changes in the Office of Education are mandated by S. 659. These include a community college unit, a GS-17 Director of Consumers' Education, a Bureau of Indian Education, and a Bureau of Occupational and Adult Education with several new positions in grades GS-16 through GS-18. Also mandated are promotion of the Director of the Teacher Corps to the grade of GS-18 and severe restriction on the Commissioner of Education as to the duties which may be assigned to the Director. We believe that efficient administration of the Office of Education is more likely to be achieved by permitting the Commissioner to determine the necessary organizational relationships within his agency in accordance with the practice which the Congress has generally followed.

I very much appreciate having this opportunity to state the Administration's views on S. 659 as it is presented to the Senate.

Sincerely,

JOHN VENEMAN,
Acting Secretary.

Mr. PROXMIRE. Mr. President, I congratulate the distinguished Senator from Rhode Island (Mr. PELL) on this bill and on the excellent statement he has made.

Did I correctly understand the Senator to say that he regards this as landmark legislation, in part?

Mr. PELL. Yes.

Mr. PROXMIRE. The inquiry I should like to make relates to the point the Senator has made that this is landmark legislation providing an opportunity for the first time—at least, the basis for an opportunity—for all Americans who are qualified to go on to postsecondary education, as the Senator has put it.

In this connection, the Senator will recall, I wrote the Senator and asked him to consider an amendment which would provide for a study of an approach which Yale University, I understand, is trying and which the Governor of Ohio proposed. Whether the proposal of the Governor of Ohio has been accepted by the Ohio Legislature, I do not know, but at least he proposed it. The proposal is to permit those who can qualify to enter an institution of postsecondary education to enter it, and the cost, including the cost of room and board, as well as the cost of tuition, would be loaned to them and would be paid back based on their future income. The Senator, I think, has incorporated into his bill an excellent section providing a study of that, section 140.

I note that on page 232, lines 7 and 8, the section indicates that there will be a study of this kind of approach, including loan programs based on income contingent lending.

I should like to ask the Senator a couple of questions, which will take me a minute or two, to try to spell out what this study would include.

As I understand, it relates to the feasibility of a universal national higher education program under which undergraduate and graduate students receive low-interest loans for education, other fees, and living expenses, and repay such loans when the student borrower begins employment, based on a percentage of his annual income above a certain minimum. This does not indicate that the bill provides this. It provides a study of its feasibility.

Mr. PELL. That is correct. It is a study of the development of what was originally the Zacharias proposal.

Mr. PROXMIRE. I think so, although I proposed it to the president of Harvard University back in 1947, some 24 years ago.

Mr. PELL. As the Senator knows, we have had this idea before the committee for some time. We thought it would be a good idea, partly motivated by the Senator's communication to the chairman of the full committee, to incorporate this material in the study.

Mr. PROXMIRE. In that connection, in carrying out the study, I hope that the following points would be considered.

Present and projected rates of tuition and fees and living expenses; present and projected rates of enrollment in

Senator Kennedy

needs of students with different ... legislation in the next session ... significant education program ever de... and approved by a congress... of the... as well as...

INSTITUTIONAL ASSISTANCE

In addition to the direct assistance to community colleges, the bill recognizes the emergency nature of the financial crisis that many colleges face. For that reason, $150 million is authorized for emergency interim grants to those colleges which would either cease to operate or be forced to cut their programs drastically without this assistance.

For the first time, S. 659 provides direct Federal payments to colleges and universities to help defray the rising costs of instruction. Under the formula provided in the bill, colleges will receive from $100 to $500 for each student who is receiving some Federal assistance. In this way, colleges will be offered a stimulus to attract lower income students. Also, to balance the need of small private colleges, which are facing the greatest financial difficulties, the smaller schools will receive $500 and larger schools will receive $100 per student.

For those small colleges, particularly black colleges in the south, the bill provides a special $100 million authorization to enable them to meet the needs of their heavily low-income student populations. These schools face the stiffest competition for the educational dollar in this decade. If they are to survive, they "need to overcome the cumulative effects of underfinancing that characterizes their history," as a recent special report of the Carnegie Commission noted.

The bill also continues and expands the grants and loans to colleges and universities for the construction of academic facilities. These programs are vital if universities are to meet the increased enrollment projected for this decade.

EDUCATION PROFESSIONS DEVELOPMENT

The teacher corps is continued and given new independence within the Office of Education and the efforts to recruit and train teachers for elementary, secondary, vocational and higher education are expanded. In addition, new provisions are included to improve the education of disadvantaged and bilingual children through retraining teachers, employing high school and college students as tutors and improving teacher training programs. In committee, my amendment to focus greater attention on the use of these programs for the needs of bilingual children was adopted.

VOCATIONAL EDUCATION

The committee has recognized the need for forcing the Office of Education to concentrate more of its efforts on improving vocational education. Thus, within the Office of Education, a separate Bureau of Occupational and Adult Education is established which is responsible for administering all of the Nation's vocational education programs. At the same time, these vocational education programs are extended for a year and the new Bureau Director is directed to undertake a study of the results and accomplishments of the existing programs to permit a full evaluation and more ef... Indians, the amendment I introduced to expand our Indian education programs has been incorporated in this bill. It reflects the year-long hearings conducted by the Special Subcommittee on Indian Education in 1968. The bill establishes three new programs: First, to assist local educational agencies in meeting the special needs of Indian students and in maintaining and operating their schools; second, to provide funds for special programs and projects to improve Indian educational opportunities; and, third, to support the improvement of adult Indian education.

These programs will do much to meet the long deferred responsibilities of the Nation to its Indian population.

DIVISION OF EDUCATION

The bill insures that there will be a single Federal agency headed by a commissioner who is the spokesman for Federal education policies. To accomplish this purpose, the committee establishes a division of education with the Department of Health, Education, and Welfare, including the present Office of Education, a new National Foundation for Postsecondary Education and a new National Institute of Education.

The function of the foundation will be to examine the Nation's postsecondary education system—its junior colleges, community colleges, universities, private colleges, vocational schools, proprietary schools—and promote excellence, innovation and reform. In addition to curricular change, the foundation also will focus on the design of new educational structures. As noted in the committee report, it is time that new educational models were encouraged and promoted. We know that our educational institutions will fail in their purpose if they remain rigid and wedded to traditional methods. Through grants and contracts, the foundaton is authorized to stimulate new ideas, new methods and new programs.

As a separate and co-equal branch within the new division of education, a semi-independent National Institute of Education will be established to coordinate all educational research, both basic and applied. The institute will appoint interdisciplinary teams where necessary to mount cross-the-board inquiry into the problems of learning, the effects of education, and the ways to measure educational output.

I believe that this bill, in its new programs of student assistance, its attempt to meet the financial crisis in higher education and its efforts to promote innovation and challenge within the educational system presents to the Nation a program for educational excellence and I strongly urge its passage.

Mr. WILLIAMS. Mr. President, we are today considering a historic piece of legislation which provides new directions in the Federal effort to increase educational opportunities in the United States. It represents the most far-reaching and ... significant education program ever de... and approved by a congress... of the... as well as...

This bill, the Education Amendments of 1971 is designed to be an omnibus education law through which the 92d Congress will deal with education programs which expire in 1971 and 1972. The programs for which authorizations expired on June 30, 1971, are those authorized by—

First, the Higher Education Act of 1965;

Second, the Higher Education Facilities Act of 1963;

Third, the National Defense Education Act of 1958; and

Fourth, the International Education Act of 1966.

The authorizations which expire on June 30, 1972, are—

First, those in the Vocational Education Act of 1963—with the exception of the permanent authorization for parts B and C; and

Second, those special authorizations in the Elementary and Secondary Education Act of 1965 providing special programs for Indian children.

Title I of this bill addresses itself to the higher education programs which have expired; title II of the bill deals with vocational education; title III concerns itself with the organizational structure of agencies administering Federal education programs and responds to a widespread interest in the creation of a National Foundation for Postsecondary Education and a National Institute of Education; title IV deals with Indian education; and title V contains miscellaneous provisions which effect education generally or which do not properly fall within the other categories.

In brief summary, S. 659, as reported from the Labor and Public Welfare Committee, contains the following provisions:

TITLE I—HIGHER EDUCATION

This title amends, revises, and extends the Higher Education Act of 1965. Portions of the National Defense Education Act of 1958, the Higher Education Facilities Act of 1963, and the International Education Act of 1966 are incorporated into the Higher Education Act of 1965 with the result that, if enacted, the Higher Education Act of 1965 would constitute a single Federal law which includes all continuing higher education financial assistance programs. In general, unless otherwise specified, title I extends the authorizations for higher education programs for 4 years, through fiscal years 1975, at the same level as those for fiscal year 1971.

PART A—COMMUNITY SERVICE AND CONTINUING EDUCATION PROGRAMS

This part amends title I of the Higher Education Act of 1965. Such title I authorizes grants to States for assistance to institutions of higher education to enable them to help solve community problems through community service programs and continuing education programs. It is proposed that—

First, Title I be amended to authorize

Minority View on S. 659

...vital that innovation, reform, ...educational excellence be nurtured ...postsecondary schooling is to be able ...meet the challenge of this new age. ... bill contains, in title III, pro... for a National Foundation for ...Postsecondary Education along the lines ...the proposal which I had earlier in... ...on behalf of the administra... The foundation has as a principal ...purpose the fostering of innovation, en... ...institutions to undertake efforts ...which they heretofore have not been ...able to venture into because of the nar... ...confines of existing programs and ...their own tight budgets. The founda... ...for example, will have authority to ...make grants for programs based on ...developing cost-effective methods of in... ...and operation, introducing ...reforms in the structure of the academic ...professions, new combinations of aca... ...and experimental learning, and ...the creation of programs tailored to in... ...needs.

In an era where enrollments have tripled since 1955, higher education budgets have doubled since 1960 and annual expenditures per student have been rising three times as fast as the cost of living, innovation must be the key if our colleges and universities are to be able to offer quality higher education to the growing numbers of our people of all ages and from all walks of life desirous and capable of achieving it. New models of teaching and learning must be developed. We need to encourage experimentation. We need probings into new kinds of education. We need to determine in a more finite way how long it should really take to receive a post secondary education. All the shibboleths of the number of years required to be a doctor, lawyer, accountant, or the fact that we get 3 or 4 months off during the summer, must be reexamined in the light of the tremendous breakout of the educational system in terms of higher education for all who seek it.

It will be noted that increasingly reference is made to "postsecondary education" rather than merely to "higher education". Education after high school for many means an academic or professional future. For others it means schooling in the occupations. A significant number of our young people do not seek to pursue their education after high school in purely academic fields but rather seek occupational, or career, training. Some 2 million Americans are now enrolled full time in postsecondary vocational or technical training courses—this is contrasted with 150,000 such students in this category as recently as 1964. This phenominal growth is perhaps one of the most significant developments in American education today.

Half of all jobs opening up in the 1970's will require training beyond high ...school but less than a 4-year degree. The ...now need some form of occupational training. Less than half this number are now receiving such training. Yet, despite persistent national requirements in the occupational field, the Federal Govern... ...spends $4 in remedial ...programs for every dollar it invests in vocational education as a source of prevention of unemployment and welfare, and invests only a dollar in vocational-technical education for every $14 spent on the Nation's colleges and universities.

I would like to point out that community colleges, in a provision authored by the chairman of the committee, the Senator from New Jersey (Mr. WILLIAMS), received special attention in title I of the bill, and quite properly expanded the horizons to include occupational education. In my own State of New York, for instance, new curricula at community colleges have included aircraft-operations technology, correction administration, physical, and occupational therapy, and environmental health technology.

This bill offers opportunities for the non-academic student to attend the eligible institution of his choice, whether a public community college, a proprietary school or a nonprofit private institution which offers the specialized training which he seeks. A Bureau of Occupational and Adult Education is also established within the U.S. Office of Education to give especial attention to these needs.

CONCLUSION

Within the confines of the time limitations on debate, I have confined my remarks to only several salient points of the bill. If I were to say anything within the necessary confines of succinctness in summary, I would quote from the concluding paragraph of the supplemental views signed by all the minority members of the committee:

> In the years ahead our Nation needs strong institutions to give high-quality education to a vastly expanded student population and to meet the challenges of a new world and new ideas. As we have for more than a century, we are pledged in the Federal establishment to continue to foster that growth, as trustees and catalysts, never by order or control.

Finally, Mr. President, I ask unanimous consent that there be printed in the RECORD at this point the text of the supplemental views of the minority members of the committee.

There being no objection, the supplemental views were ordered to be printed in the RECORD, as follows:

SUPPLEMENTAL VIEWS OF MESSRS. JAVITS, PROUTY, DOMINICK, SCHWEIKER, PACKWOOD, TAFT, AND BEALL

The undersigned members of the minority on the committee support the Education Amendments of 1971, S. 659. Our support of this measure is consistent with the historic sponsorship and support of constructive education legislation in the Congress on a bipartisan basis and our party's own traditions dating back more than a century when, in 1862, during the administration of Abraham Lincoln, the first Morrill Act for land grant aid to colleges became law.

HIGHER EDUCATION OPPORTUNITIES FOR ALL

The President commenced his March 19, ...message on Higher Education with the ...college should be barred ... lack of money. That has long been a great American goal, I propose that we achieve it now."

And he concluded the message with the observation—

> "The time has come for a renewed national commitment to post-secondary education and especially to the reform and revitalization. We must join with our creative and demanding young people to build a system of higher education worthy of the ideals of the people in it."

And the members of the minority of this committee, in their views appended to both the 1966 and 1968 higher education bills, stated

> "As Republicans we are actively interested in achieving the goal sought by our party for more than a century—making available a higher education for all young Americans who qualify and who seek it."

In considering the availability of a higher education, we refer not only to those in the poverty category but also the large number of young people from middle-income families whose resources are insufficient to meet the mounting costs of a college education. We must be careful lest our campuses be occupied principally by those at the poverty level, who qualify for special aid, and those from the upper income brackets, who can afford to pay—a campus peopled only by the very rich and the very poor, pricing out the middle income, is also violative of the American system.

We wish also to stress that post-secondary education is not only for the very young. The average age of the students in the nation's community colleges is 26, illustrative of the fact that educational opportunities cannot be confined to those recently out of high school.

This bill, we believe, is a landmark measure which is a great stride forward toward the goals enunciated by the President in his March, 1970 message and by the members of the minority of this committee. We take understandable pride in our contributions to it.

CONTRIBUTIONS OF THE MINORITY

We are particularly gratified to note some of the principal contributions of the minority to this bill as finally reported. These provisions include:

1. Establishment of the National Foundation for Postsecondary Education to stimulate innovation in higher education.

2. Establishment of the National Institute of Education to foster educational research.

3. Establishment of the Student Loan Marketing Association to enhance liquidity for guaranteed student loans through providing a warehousing and secondary market mechanism.

4. Establishment of ethnic heritage studies centers for study of the contributions of the cultural heritage of the ethnic groups of the Nation.

5. Program of emergency assistance for institutions of higher education experiencing serious financial stress.

6. Authorization of matching grants to States for State scholarship incentives.

7. Requirement of a comprehensive report by the Secretary of Health, Education, and Welfare on the financing of postsecondary education.

8. Inclusion in definition of developing institutions of junior and community colleges located in or near Indian reservations.

9. Inclusion of special problems of career education in National Institute of Education.

10. Authorization of grants to improve planning and management capability of higher education institutions.

11. Inclusion of half-time students in educational opportunity grant programs.

12. Establishment of a new academic facil...

13. Requirement for study to ... specific recommendations on a ... cost-of-education cost-accounting ... ology.

...ome delinquents in adult ... in Title I. Elemen- ... Act, ...

...irement that Basic Educational ... Grants, Supplemental Educa- ... Grants, the College Work ... am, and contributions to the Na- ... Student Loan program fund ... in funding.

... developing institutions to re- ... two-thirds Federal funds for construc- ... grants.

... provision for employment of high school ... college students as tutors or instruc- ... assistants for educationally disad- ... children.

19. Authorizing an additional $200 in amount of Supplemental Educational Opportunity Grant for students in upper half of college class.

20. Provision for the retraining of teachers to enable them to teach other grades or subjects in which teacher shortages exist.

21. Establishment of a Bureau of Occupational and Adult Education within the U.S. Office of Education.

22. Elimination of restrictions in Education Professions Development Act on training of teacher aides and on training teachers and teachers aides serving in non-public schools.

23. Amendment to meet problem of discrimination against particular categories of students in guaranteed loan program.

24. Expansion of program of improving training opportunities for elementary and secondary education personnel to encourage persons to serve as tutors in pre-school, elementary and secondary classes.

25. Authorization of construction grants for removal of architectural barriers to handicapped persons.

26. Authorizing use of Education Professions Development Act funds to train teachers of American Indian children.

27. Inclusion of at least one student in governing board of National Foundation for Postsecondary Education.

28. Increasing to 5% or $20,000, whichever is greater, the amount which a State may expend for administration of its plan for attracting and qualifying teachers to meet critical teacher shortages.

29. Consolidation of certain higher education programs.

30. Provision for uniform application requirements under Title II (College Library Assistance), Title III (Strengthening Developing Institutions), and Title V (Education Professions Development) of the Higher Education Act.

31. Inclusion of volunteer firemen in vocational education programs.

In addition to these, the minority members were responsible for numerous minor and technical improvements to the bill.

CONCERN FOR NATION'S COLLEGES

We have long had the strong conviction that our colleges must be institutions free of political controls nurtured by a concerned citizenry through both public and private sources. American higher education now stands foremost in the world both in terms of scholarship and in terms of the opportunities offered our people. We intend that it should continue so.

We are much concerned with the future of our Nation's private colleges, now comprising about one-fourth of all enrollment, many in dire financial straits, whose growth is not keeping pace with that of higher education generally.

These non-public schools, whose place in the ranks of American higher education dates back to 1750, provide not only higher education for more than 2 million young Americans but, also as important, are a leavening and stimulating influence for public colleges and universities. Their continu... to the ...

... of the nation, a plight shared by public institutions as well, is what the Carnegie Commission on Higher Education termed "a financial crisis, unmatched in its impact in any previous period of history". Programs of Federal assistance, such as are provided in this bill must be complemented by strengthened State and local support, and by contributions from individuals and the private sector in our economy.

In addition, innovation must be the key if the Nation's colleges, universities and other institutions of postsecondary education are to be able to offer quality higher education to the growing numbers of our people of all ages and from all walks of life capable of achieving it. New models of teaching and learning and of institutional management must be developed. There must be a source of support for research, for experimentation, for probing into new areas of scholarship and for different kinds of education and the facilities in which to undertake them.

Increasingly reference is made to "postsecondary education" rather than to "higher education". For, while education after high school for many represents additional schooling in academic or professional channels, many others find their schooling in the occupations. American education must not be strangled by degrees or become mired in the bog of credentialism. As former HEW's Secretary John Gardner wrote:

"An excellent plumber is infinitely more admirable than an incompetent philosopher. The society which scorns excellence in plumbing because plumbing is a humble activity and tolerates shoddiness in philosophy because it is an exalted activity will have neither good plumbing nor good philosophy. Neither its pipes nor its theories will hold water."

Provisions in this bill for a National Foundation for Postsecondary Education, for a National Institute of Education, and for new and expanded institutional and student assistance programs, sponsored by minority members of the committee and supported by the Administration, will, we believe, appreciably assist in bringing in the new era of American higher education which we envision.

With these provisions, this bill has the potential of being as great in its importance and its impact as the National Defense Education Act of 1958, the Cooperative Research Act of 1954, and the establishment ... the Department of Health, Education, ... Welfare in 1953.

CONCLUSION

In the years ahead our Nation needs strong institutions to give high-quality education to a vastly expanded student population and to meet the challenges of a new world and new ideas. As we have for more than a century, we are pledged in the Federal establishment to continue to foster that growth, as trustees and catalysts, never by order or control.

JACOB K. JAVITS,
WINSTON PROUTY,
PETER H. DOMINICK,
RICHARD S. SCHWEIKER,
BOB PACKWOOD,
ROBERT TAFT, JR.,
J. GLENN BEALL, JR.

Mr. JAVITS. Mr. President, finally I wish to state that there has been, as I said, in another connection a little earlier, there has been much erosion in the motivation of our people and an erosion in their confidence in the destiny which always for generations was unquestioned, the great destiny of the United States.

... of our future development in this country are as follows:

First, if we show we are able to get out of the quagmire of Vietnam, and we are on the way to doing that.

Second, if we show we are able to get out of the quagmire of the syndrome of inflation and unemployment, and I am hopeful that we are on the way to doing that.

And, third, if we show our ability to accord to our people the degree of education which they are capable of absorbing without allowing the economics of that opportunity to be a barrier to them.

If we do all three of these things, Mr. President, we can be satisfied in our consciences that the future of America in the eyes of its own people has again been restored to that brightness which has been a hallowed tradition and which it so richly deserves.

Mr. PELL. Mr. President, I thank the distinguished senior Senator from New York; the ranking minority member of the full committee, for his eloquent words and for again underlining the fact that the pending bill is the product of us all, not only the members of the committee, but also the staff members. It enjoys the broad support that it has because each member has been very much a part of its writing and that is the way it should be.

Mr. BYRD of Virginia. Mr. President, will the Senator yield?

Mr. PELL. I yield to the Senator from Virginia.

Mr. BYRD of Virginia. Mr. President, as one who supports appropriations for higher education, I wonder if there is a committee report, and I do not mean the green book on my desk, but is there a relatively brief committee report giving the purport of this legislation?

Mr. PELL. Mr. President, there is on pages 2 through 9, a short summary of the bill.

Mr. BYRD of Virginia. What is the timetable on the legislation? I notice that we have a committee report that contains 575 pages. The bill was laid before the Senate at 5 o'clock tonight. What is the timetable?

Mr. PELL. There is a unanimous-consent agreement that was arrived at yesterday that provides for 6 hours on the bill, an hour on amendments, half an hour on amendments to amendments, 3 hours on the Dominick amendment, and 2 hours for each of the two Metcalf amendments.

Mr. BYRD of Virginia. What is the amount of money involved? How much money is involved in the bill?

Mr. PELL. It is $18 billion.

Mr. BYRD of Virginia. It is $18 billion, and we are going to dispose of it tomorrow.

Mr. PELL. That is somewhat more time than we sometimes take in disposing of military appropriations bills.

Mr. BYRD of Virginia. I do not think we ought to dispose of military appropriation bills in any such time. I certainly do not defend disposing of military appropriation bills in any such time as

This measure is both massive and monumental. It is not only for the moment but for the future. In his higher education message, President Nixon declared:

No qualified student who wants to go to college should be barred for lack of money. That has long been a great American goal: I propose that we achieve it now.

This legislation is designed to help carry out the President's historic pledge and to help the Nation realize its great goal. I might point out, Mr. President, that considerable progress has been made in this country in expanding educational opportunities for our citizens and during this period of self-examination, we need to keep this, as well as unresolved problems, in sight. For example, the United States has an enviable record in providing higher education opportunities to those individuals described by Mr. Servan-Schreiber, the French author of the best seller, The American Challenge, as "children of manual laborers and less fortunate elements of the population." Comparing the record of the United States with other countries of the world, Mr. Servan-Schreiber comments:

In France workers form 56% of the population, but their children represent only 12.6% of the students. The same is true in other Common Market countries: 11.5% in Belgium, 10% in Holland, and 7.5% in Germany. In the United States on the other hand from three to five times as many children of workers or farmers have access to higher education as in the Common Market countries.

Today in this country, among all family members enrolled in college, 61 percent are from families in which the head had not completed even 1 year of college.

To achieve this goal of making postsecondary education available to all with the ability and desire, the bill authorizes new student assistance programs, as well as continuation of present student assistance programs such as work-study, education opportunities grants, the national defense student loans, and the guarantee loan program. In addition, the legislation authorizes a program of Federal matching grants for State scholarship programs. The new student assistance program, basic educational opportunities grants, authorizes grants of $1,400 less the amount which can be reasonably expected to be contributed by the student and his or her family for postsecondary education. The grant may be up to 50 percent of the cost of attending the institution of the student's choice. Under this program, each year the Commissioner of Education will determine and issue regulations on the amounts families can be expected to contribute reasonably to the postsecondary education of their children. Families' contributions will include such criteria as family income, number of dependents, number of dependents in postsecondary education, assets of students and the families and any unusual expenses such as medical expenses. In general, no basic grant would be less than $200 which would allow the Commissioner of Education to waive this $200 limitation in unusual circumstances. Also, institutions at which a basic grant recipient is enrolled will receive a cost of institution allowance based on the number of students receiving basic grants. The amount of the payments to the institution would vary from $100 for each student receiving a basic grant at an institution having 10,000 or more students to a $500 payment for each eligible student at an institution having 1,000 or less students.

We know that additional resources are needed in higher education, and this bill will provide substantially more funds. Yet, we also know that money alone will not solve higher education problems. The administration recognizes this fact also and the committee has included two administration proposals which have the potential of having a profound effect on the American educational system. I am referring to the proposals for the establishment of a National Institute of Education and a National Foundation on Postsecondary Education.

The Foundation's focus would be on postsecondary education. Its purpose will be to foster excellence, innovation and reform. As the Labor and Public Welfare Committee noted in its report:

The need is clear and the time is right for reform and innovation in postsecondary education.

The Carnegie Commission, the Newman report, and others have identified many of the problems facing higher education and has suggested a possible reform. In my discussion with many educators, I sense a willingness and determination to bring about the necessary changes. The Foundation, hopefully, will provide the leadership and impetus for some long overdue action and reform in postsecondary education.

The National Institute of Education is designed to redress the sorry state of educational research. A researcher from one of the Nation's leading universities, who has spent a lifetime in such work including a survey on the state of our knowledge regarding the reading and learning processes, concluded that we know very little about the learning process and how students really learn or learn to read. The President, in a similar vein, stated:

We must stop pretending we understand the mystery of the process.

Our social problems and rising expectations underscore the need for a quantum leap in education research, development, and, equally important, dissemination of such results to the classroom.

The need for expanded research programs in education is evidenced by comparing additional research expenditures with industry and other fields.

Industry for example, spends about 4 percent, or $8 billion of net sales on basic and applied research.

In the health area, we as a nation spend approximately 5 percent or $2.5 billion of the total national expenditures for health on research.

In agriculture, we spend an amount from farming on research development and application by government agencies, colleges, and industry.

In the defense area, we spend approximately 3.87 percent or $7.8 billion a year for research and development.

Yet in education research expenditures only a few years ago were only about one-tenth of 1 percent of the total educational budget. Today research expenditures amount to about one-fourth of 1 percent or about $125 million a year.

Thus, there is little question that educational expenditures for research and development must be greatly expanded, and I am delighted that these two powerful vehicles for education change and reform, the Institute and the Foundation, are included in this legislation.

Mr. President, the public, students, and parents are demanding greater accountability in our schools. My State of Maryland is demonstrating a greater interest in the accountability concept. Certainly this is one area where the Institute will want to exercise leadership in helping to usher in the concept of accountability into the education system.

Many other provisions of this measure are important, but they have been discussed at some length by the chairman of the Education Subcommittee (Mr. PELL) and others. I would ask unanimous consent, however, that the summary of the bill's provisions be included at the conclusion of my remarks.

I do want to discuss some of the amendments that I offered that were incorporated into the legislation. They included, first, a program to provide emergency interim assistance to institutions of higher education in serious financial distress. On June 24 I introduced the Emergency Higher Education Assistance Act of 1971 in response to the financial emergency facing institutions of higher learning. In my own State, St. Joseph College, a small, private institution with an excellent reputation, has announced its intentions to close. Since that announcement, a committee to save St. Joseph has been formed. I have met with representatives of this committee and they indicated to me they needed approximately $200,000 to stay in operation. The adoption of this provision would certainly assist St. Joseph and other institutions in similar difficulties. One of the Nation's more prestigious institutions, Johns Hopkins, is also in severe financial difficulties.

The second program authored by me authorizes grants to improve the planning and managing capabilities of institutions of higher education. Institutions qualifying under the interim emergency assistance just described will automatically be eligible for these grants.

In addition, other colleges and universities may receive demonstration grants for proposals having a national significance for improving the planning and management capabilities of institutions of higher learning.

The third proposal offered by me authorizes a study by the Commissioner of higher education financing. As the emer-

leges and universities. [illegible] to determine what the [illegible] response of all levels of government as well as

...at this point in my remarks the committee report language describing these proposals be included in the RECORD.

Finally, I offered an amendment designed to make certain that elementary and secondary education funds could continue to be used for delinquents in adult correctional institutions. I ask unanimous consent that the committee explanation of this section be printed at this point in the RECORD, together with an article from the July 30, 1971, Baltimore Sun by Roger Twig describing what the loss of these funds would have meant to 1,000 young inmates of the Hagerstown Correctional Training Center and the State of Maryland. Naturally, I am pleased that these education funds, under the adopted amendment, will be able to be used by the State of Maryland in its adult correctional institutions.

Mr. President, I also ask unanimous consent that my introductory floor remarks when I introduced S. 2154 be printed in the RECORD, together with the actual language from S. 659 of the emergency assistance for institutions of higher education as included in the bill.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

BRIEF SUMMARY OF S. 659

TITLE I—HIGHER EDUCATION

This title amends, revises, and extends the Higher Education Act of 1965. Portions of the National Defense Education Act of 1958, the Higher Education Facilities Act of 1963, and the International Education Act of 1966 are incorporated into the Higher Education Act of 1965 with the result that, if the Committee amendment is enacted, the Higher Education Act of 1965 would constitute a single Federal law which includes all continuing higher education financial assistance programs. In general, unless otherwise specified, title I extends the authorizations for higher education programs for four years, through fiscal year 1975, at the same level as those for fiscal year 1971.

PART A—COMMUNITY SERVICE AND CONTINUING EDUCATION PROGRAMS

This part amends title I of the Higher Education Act of 1965. Such title I authorizes grants to States for assistance to institutions of higher education to enable them to help solve community problems through community service programs and continuing education programs. It is proposed that—

(1) title I be amended to authorize a reservation of appropriations for special projects designed to meet national and regional problems;

(2) title I be amended to authorize a special appropriation for projects designed to meet urban problems in Standard Metropolitan Statistical Areas;

(3) the Commissioner be required to conduct a special evaluation of title I and submit reports to the Congress on such evaluations.

PART B—COLLEGE LIBRARY PROGRAMS

This part amends title II of the Higher Education Act of 1965. Such title II authorizes—

(1) grants to institutions of higher education for the acquisition of college library resources;

(2) grants and contracts for research and training in librarianship; and

(3) reorganize the authorizations of appropriations by providing for a single authorization for parts A and B of title II and a percentage division of the appropriation for specific purposes;

(4) authorize the Commissioner to waive maintenance of effort requirements for grants for the acquisition of library resources;

(5) increase the maximum amounts for supplemental grants; and

(6) require an annual evaluation of the program operation by the Library of Congress.

PART C—DEVELOPING INSTITUTIONS; EMERGENCY ASSISTANCE TO INSTITUTIONS OF HIGHER EDUCATION

This part (1) amends title III of the Higher Education Act of 1965, and (2) contains a special authorization of appropriations for emergency interim assistance to institutions of higher education which are in serious financial distress, and (3) requires a study of financing higher education, including uniform cost accounting standards.

Such title III of the Higher Education Act of 1965 authorizes grants to developing institutions of higher education to enable them to strengthen their academic and administrative capacities. Part C revises such title III to improve the program of strengthening developing institutions and increase emphasis on institutions which serve a significant proportion of students who come from disadvantaged backgrounds.

PART D—STUDENT ASSISTANCE

This part amends present law as it relates to financial assistance to students in institutions of higher education. The amendments made by this part—

(1) revise part A of title IV of the Higher Education Act of 1965 to authorize—

(A) a Basic Educational Opportunity Grant of $1,400 for any student minus the amount his or her family can reasonably be expected to contribute for his or her postsecondary education;

(B) a Supplemental Educational Opportunity grant (a continuation of the present educational opportunity grant program) for students who are in exceptional financial need and who would be unable to receive the benefits of a postsecondary education without such a grant, which grants are (i) to supplement the basic grants, and (ii) to aid students who are not eligible for basic grants but who are in need of financial assistance;

(C) matching grants to States to encourage the development and expansion of State scholarship programs;

(D) special services to encourage disadvantaged students to complete secondary school and to enter and continue programs of postsecondary education;

(E) cost-of-instruction allowance payments to institutions of higher education at which basic grant recipients are in attendance;

(2) modify the insured student loan program—

1. by permitting an increase in the maximum amount of student loans in exceptional cases, and

2. by authorizing the Commissioner to audit eligible institutions, to set reasonable standards of financial responsibility for such institutions, and suspend or terminate their eligibility;

(3) create a Student Loan Marketing Association for warehousing student loans and in order to create a secondary market for such loans;

(4) modify the determination of need under the College Work-Study Program by requiring that the actual cost of attendance for the institution be taken into consideration;

(5) revise the Educational Opportunity Grant program under part A of title IV of the Higher Education Act of 1965 to title IV of the Higher Education Act of 1965, with minor modifications; and

(6) require an affidavit by students stating student assistance funds received by the student will be used for education related purposes.

Part D also requires the Secretary of Health, Education and Welfare to conduct a study of financing postsecondary education.

PART E—EDUCATION PROFESSIONS DEVELOPMENT ACT

This part amends title V of the Higher Education Act of 1965, the Education Professions Development Act. The Education Professions Development Act authorizes the Teacher Corps and a variety of programs designed to improve the quality of teaching in elementary and secondary schools, vocational education programs, and in institutions of higher education. The amendments made by part E—

(1) combine the seven authorizations under the Education Professions Development Act into a single authorization with a percentage division of the appropriations among the programs authorized by the Act.

(2) clarify the status of the Teacher Corps; and

(3) together with minor and technical amendments, expand the scope of the training programs authorized by the Education Professions Development Act.

PART F—INSTRUCTIONAL EQUIPMENT

This part extends title VI of the Higher Education Act of 1965. Such title VI authorizes financial assistance to institutions of higher education for the improvement of under graduate instruction. Funds may be used for the acquisition of instructional equipment and closed circuit television equipment.

PART G—ACADEMIC FACILITIES

This part transfers the provisions of the Higher Education Facilities Act of 1963 to title VII of the Higher Education Act of 1965, with modifications and a new authorization for mortgage insurance on facilities.

PART H—NETWORKS FOR KNOWLEDGE

This part extends title VIII of the Higher Education Act of 1965, with technical and clarifying amendments. Such title VIII encourages cooperative arrangements among institutions of higher education for the joint use of facilities and resources to form networks for knowledge. The amendments make clear that law schools are to be included.

PART I—GRADUATE PROGRAMS AND COMMUNITY COLLEGE PROGRAMS

This part creates two new titles IX and X, in lieu of the present titles IX and X of the Higher Education Act of 1965. The new title IX—

(1) in part A, combines a number of present graduate programs into a single program of assistance to strengthen graduate schools;

(2) in part B, combines various fellowship programs into a broad program of Federal fellowships.

The new title X provides for State wide plans for postsecondary educational opportunities through community colleges and authorizes grants for—

(1) the establishment of New Community Colleges;

(2) the expansion of present community colleges;

(3) the lease of facilities.

PART J—LAW SCHOOL CLINICAL EXPERIENCE PROGRAMS

This part extends and makes minor changes in the program to encourage law schools to provide clinical experience in the law.

[illegible]	McKinney	Rooney, Pa.
[illegible]	Madden	Rosenthal
[illegible]	Mazzoli	Rousselot
[illegible]	Meeds	Roy
Green, Oreg.	Melcher	Roybal
Green, Pa.	Metcalfe	Runnels
Griffiths	Mikva	Ryan
Grover	Miller, Calif.	St Germain
Gude	Mills, Ark.	Sarbanes
Hamilton	Minish	Saylor
Hammer-schmidt	Mink	Scheuer
Hanley	Mitchell	Sebelius
Hanna	Mollohan	Seiberling
Hansen, Wash.	Moorhead	Shipley
Harrington	Morgan	Sikes
Harsha	Moss	Slack
Hathaway	Murphy, Ill.	Smith, Iowa
Hawkins	Murphy, N.Y.	Staggers
Hechler, W. Va.	Natcher	Stanton,
Heinz	Nedzi	James V.
Helstoski	Nelsen	Steiger, Ariz.
Hicks, Mass.	Nix	Steiger, Wis.
Hicks, Wash.	Obey	Stephens
Hollifield	O'Hara	Stokes
Howard	O'Konski	Stratton
Hungate	O'Neill	Stubblefield
Jacobs	Patman	Symington
Jones, N.C.	Patten	Taylor
Karth	Pepper	Teague, Tex.
Kastenmeier	Perkins	Thompson, N.J.
Kazen	Pettis	Thomson, Wis.
Kemp	Peyser	Thone
Kluczynski	Pickle	Tiernan
Koch	Pike	Ullman
Kuykendall	Podell	Van Deerlin
Kyros	Preyer, N.C.	Vanik
Landrum	Price, Ill.	Waldie
Leggett	Pryor, Ark.	Wampler
Link	Pucinski	Whalen
Long, Md.	Quillen	White
McClory	Rangel	Widnall
McCloskey	Reid, N.Y.	Winn
McCormack	Rhodes	Wyatt
McDade	Riegle	Yates
McDonald, Mich.	Rodino	Zablocki
McFall	Roe	Zwach
McKevitt	Roncalio	
	Rooney, N.Y.	

NOES—158

Abbitt	Frey	Passman
Abernethy	Fuqua	Pelly
Andrews, Ala.	Gettys	Poff
Andrews, N. Dak.	Goldwater	Price, Tex.
Archer	Gooding	Purcell
Arends	Gray	Quie
Ashbrook	Griffin	Railsback
Betts	Gross	Randall
Blackburn	Haley	Rarick
Bray	Hall	Roberts
Brinkley	Harvey	Robinson, Va.
Broomfield	Hastings	Robison, N.Y.
Brotzman	Hays	Rogers
Brown, Ohio	Heckler, Mass.	Rostenkowski
Broyhill, N.C.	Henderson	Roush
Burke, Fla.	Hillis	Ruppe
Burleson, Tex.	Hogan	Ruth
Burlison, Mo.	Horton	Sandman
Byrnes, Wis.	Hull	Satterfield
Camp	Hunt	Scherle
Carter	Hutchinson	Schmitz
Chamberlain	Ichord	Schneebeli
Chappell	Johnson, Pa.	Schwengel
Clancy	Jonas	Scott
Clawson, Del	Jones, Ala.	Shoup
Collins, Tex.	Keating	Shriver
Colmer	Keith	Smith, Calif.
Conable	King	Snyder
Conte	Kyl	Spence
Cotter	Landgrebe	Springer
Daniel, Va.	Latta	Steele
Davis, S.C.	Lennon	Sullivan
Davis, Wis.	Lent	Talcott
de la Garza	McCollister	Teague, Calif.
Delaney	McKay	Terry
Dellenback	McMillan	Thompson, Ga.
Devine	Macdonald, Mass.	Veysey
Dickinson	Mahon	Waggonner
Dorn	Mann	Ware
Dow	Martin	Whalley
Dowdy	Mathias, Calif.	Whitehurst
Downing	Mathis, Ga.	Whitten
Duncan	Mayne	Wiggins
Edwards, Ala.	Michel	Williams
[illegible]	[illegible] Ohio	Wold
[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]
Esch	Minshall	Young, Fla.
Flynt	Morse	Young, Tex.
Ford, Gerald R.	Mosher	Zion
Fountain	Myers	
Frenzel	Nichols	

NOT VOTING—51

[illegible]inall	Halpern	Pirnie
[illegible]ier	Hansen, Idaho	Powell
Bevins	Hebert	Rees
Barrett	Hosmer	Reuss
Blatnik	Jarman	Sisk
Blanton	Johnson, Calif.	Skubitz
Broyhill, Va.	Jones, Tenn.	Smith, N.Y.
Cabell	Kee	Stanton,
Carney	Lloyd	J. William
Convers	Long, La.	Steed
Crane	Lujan	Stuckey
Dennis	McClure	Udall
Derwinski	McCulloch	Vander Jagt
Digas	McEwen	Vigorito
Edwards, La.	Maillard	Wilson, Bob
Frelinghuysen	Martin	Wilson,
Gallagher	Natsunaga	Charles H.
Gubser	Montgomery	Wright
Hagan	Pirnie	

So the amendment was agreed to.

The CHAIRMAN pro tempore. For what purpose does the gentleman from Wyoming rise?

Mr. RONCALIO. Mr. Chairman, I ask unanimous consent to offer an amendment to title XI.

The CHAIRMAN pro tempore. The gentleman from Wyoming asks unanimous consent to return to title XI for the purpose of offering an amendment thereto.

Is there objection to the request of the gentleman from Wyoming?

Mr. STEIGER of Wisconsin. Mr. Chairman, I object.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

TITLE XIII—EVALUATION

SEC. 1301. The Higher Education Act of 1965 is amended by inserting after title XIII the following new title:

"TITLE XIV—EVALUATION OF FEDERAL EDUCATION PROGRAMS

"SEC. 1401. (a) The Comptroller General of the United States shall review, audit, and evaluate any Federal education program upon request by a committee of the Congress having jurisdiction of the statute authorizing such program or, to the extent personnel are available, upon request by a member of such committee. Upon such request, he shall (1) conduct studies of statutes and regulations governing such Federal education program; (2) review the policies and practices of Federal agencies administering such program; (3) review the evaluation procedures adopted by such agencies carrying out such program; and (4) evaluate particular projects or programs. The Comptroller General shall compile such data as are necessary to carry out the preceding functions and shall report to the Congress at such times as he deems appropriate his findings with respect to such Federal education program and his recommendations for such modifications in existing laws, regulations, procedures and practices as will in his judgment best serve to carry out effectively and without duplication the policies set forth in education legislation relative to such program.

"(b) In carrying out his responsibilities as provided in subsection (a) of this section, the Comptroller General shall give particular attention to the practice of Federal agencies of contracting with private firms, organizations and individuals for the provision of a wide range of studies and services (such as personnel recruitment and training, pro-

[illegible] activities contractors and to the Congress his findings with respect to the necessity for such contracts and their effectiveness in serving the objectives established in education legislation.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 1402. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this title."

Mrs. GREEN of Oregon (during the reading). Mr. Chairman, I ask unanimous consent that title XIII be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from Oregon?

There was no objection.

The CHAIRMAN pro tempore. Are there amendments to be proposed to title XIII? If not, the Clerk will read.

The Clerk read as follows:

TITLE XIV—NATIONAL INSTITUTE OF EDUCATION

SHORT TITLE

SEC. 1401. This title may be cited as the "National Institute of Education Act".

FINDINGS AND DECLARATION OF POLICY

SEC. 1402. (a)(1) The Congress hereby declares it to be the policy of the United States to provide to every person an equal opportunity to receive an education of high quality regardless of his race, color, religion, sex, national origin, or social class. Although the American educational system has pursued this objective, it has not attained it. Inequalities of opportunity to receive high quality education remain pronounced. To achieve equality will require far more dependable knowledge about the process of learning and education than now exists or can be expectd from present research and experimentation in this field. While the direction of the education system remains primarily the responsibility of State and local governments, the Federal Government has a clear responsibility to provide leadership in the conduct and support of scientific inquiry into the educational process.

(2) The Congress further declares it to be the policy of the United States to—

(i) help to solve or to alleviate the problems of, and promote the reform and renewal of American education;

(ii) advance the practice of education, as an art, science, and profession;

(iii) strengthen the scientific and technological foundations of education; and

(iv) build an effective educational research and development system.

(b) The purpose of this title is to establish a National Institute of Education to conduct and support educational research and development and disseminate education research and development findings throughout the Nation.

ESTABLISHMENT OF A NATIONAL INSTITUTE OF EDUCATION

SEC. 1403. There is established in the Department of Health, Education, and Welfare a National Institute of Education (hereinafter referred to as the "Institute"). The Institute shall be headed by a Director who shall be appointed by the President by and with the advice and consent of the Senate. The Director shall perform such duties as are prescribed by the Secretary of Health, Education, and Welfare (hereinafter referred to as the "Secretary") and shall be responsible to such Secretary and not to or through any other officer of that Department. The Director shall not delegate any of his functions to any other officer who is not directly responsible to him. The Director shall receive compensation at the rate prescribed for the Com-

SEC. 1404. (a) The Institute, [illegible] Institute, shall conduct educational research; collect and disseminate the findings of educational research; train individuals in educational research; assist and foster such re-

...ch, collection, dissemination, or training ...rough grants, or technical assistance to, or ...tly financed cooperative arrangements ... public or private organizations. It provid- ... [illegible]

...vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder ... such term, and (2) the ... [illegible]

...copyrights, computing programs, the moral and broadcast performance rights, or any form of property whatsoever or any rights ... [illegible]

be required to accomplish such purposes. As used in this title the term "educational research" includes but is not limited to research (basic and applied), planning, surveys, evaluations, investigations, experiments, developments, and demonstrations.

(b) Not less than 90 per centum of the funds appropriated under section 1409 for a fiscal year shall be expended to carry out this title through grants to or contracts with qualified public or private agencies or individuals.

EMPLOYMENT OF PERSONNEL

SEC. 1405. The Secretary may appoint and fix the compensation of such officers and employees as may be necessary to carry out purposes of this title. Such officers and employees shall be appointed in accordance with chapter 51 of title 5, United States Code, except that (1) to the extent that the Secretary deems such action necessary to recruit men and women of exceptional talent he may establish the entrance grade for personnel at a level up to two grades higher than the grade level provided for by such personnel under the General Schedule established by such title, and fix their compensation accordingly, and (2) to the extent the Secretary deems such action necessary to the discharge of his responsibilities, he may appoint personnel of the Institute without regard to the civil service or classification laws: Provided, That personnel appointed under this clause do not exceed at any one time one-third of the number of full-time, regular technical or professional employees of the Institute.

NATIONAL ADVISORY COUNCIL ON EDUCATIONAL RESEARCH AND DEVELOPMENT

SEC. 1406(a). The President shall appoint a National Advisory Council on Educational Research and Development which shall—

(1) review and advise the Secretary and the Director on the status of education, educational research, and the prospective educational needs of our society;

(2) advise the Secretary and the Director of the Institute on development of programs to be carried out by the Institute and on matters of general policy arising in the administration of this title;

(3) present to the Secretary and the Director such recommendations as it may deem appropriate for the strengthening of educational research, the improvement of methods of collecting and disseminating the findings of educational research and of ensuring the implementation of educational renewal and reform based upon the findings of educational research;

(4) conduct such studies as may be necessary to fulfill its functions under this section;

(5) prepare an annual report to the Secretary on the current status and needs of educational research in the United States;

(6) submit an annual report to the President on the activities of the Institute, and on education and educational research in general, (A) which shall include such recommendations and comments as the Council may deem appropriate, and (B) shall be submitted to the Congress not later than March 31 of each year; and

(7) meet at the call of the Chairman, except that it shall meet (A) at least four times during each fiscal year, or (B) whenever one-third of the members request in writing that a meeting be held.

(b) The Council shall be appointed by the President without regard to the civil service laws and shall consist of fifteen members appointed for terms of three years; except that (1) any member appointed to fill a ... [illegible] ... of two years, and five at the end of the first year. One of such members shall be designated by the President as Chairman. Members of the Council who are not regular full-time employees of the United States shall, while serving on the business of the Council, be entitled to receive compensation at rates to be determined by the Secretary, but not exceeding the per diem equivalent for GS-18 for each day so engaged, including travel time and, while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently. The Director of the Institute and the Commissioner of Education shall serve on the Council ex officio.

(c) The Secretary shall provide to the Council such professional, clerical, and other assistance as may be required to carry out its functions.

(d) The President may also appoint other Federal officials as non-voting ex officio members.

(e) The Council is authorized without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and general schedule pay rates, to employ and fix the compensation of such personnel as may be necessary to carry out its functions.

(f) The Council is further authorized to obtain services in accordance with the provisions of section 3109 of title 5, United States Code, and it may enter into contracts for the conduct of studies and other activities necessary to the discharge of its duties.

GENERAL PROVISIONS

SEC. 1407. (a) The Director, in order to carry out the purposes of this title, is authorized—

(1) to make, promulgate, issue, rescind and amend rules and regulations governing the manner of operation of the Institute;

(2) to accept unconditional gifts or donations of services, money or property, real, personal or mixed, tangible or intangible;

(3) without regard to section 3648 of the Revised Statutes of the United States (31 U.S.C. 529), to enter into and perform such contracts, leases, cooperative agreements or other transactions as may be necessary for the conduct of the Institute's work and on such terms as he may deem appropriate with any agency or instrumentality of the United States, or with any State, Territory or possession, or with any political subdivision thereof, or with any international organization or agency, or with any firm, association, corporation or educational institution, or with any person, without regard to statutory provisions prohibiting payment of compensation to aliens;

(4) to acquire (by purchase, lease, condemnation or otherwise), construct, improve, repair, operate and maintain laboratories, research and testing facilities, computing services, communications networks and machinery and such other real and personal property or interest therein as he deems necessary;

(5) to acquire (by purchase, lease, condemnation or otherwise), and to lease to others or to sell such property in accordance with the provisions of the Federal Property and Administrative Services Act, patents, ... [illegible] ... without reimbursement. Each department and agency of the Federal Government shall cooperate fully with the Director in making its services, equipment, personnel and facilities available to the Institute.

(b) All laborers and mechanics employed by contractors or subcontractors on all construction projects assisted under this title shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a–276a–5). The Secretary of Labor shall have with respect to the labor standards specified in this section the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. 133z–15) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276(c)).

JOINT FUNDING WAIVER AUTHORITY

SEC. 1408. Where funds are advanced for a single project by more than one Federal agency for the purposes of this title, the National Institute of Education may act for all in administering the funds advanced and any such agency may waive any technical grant or contract requirement which is inconsistent with the similar requirements of the National Institute or which the National Institute does not impose.

APPROPRIATIONS AUTHORIZED

SEC. 1409. There are authorized to be appropriated for the fiscal year 1972, and for each fiscal year thereafter, such sums as may be necessary to carry out this title, which shall remain available until expended.

Mrs. GREEN of Oregon (during the reading). Mr. Chairman, I ask unanimous consent that title XIV be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from Oregon?

There was no objection.

POINT OF ORDER

Mr. GROSS. Mr. Chairman, I make a point of order against title XIV inasmuch as it invades the jurisdiction of the House Post Office and Civil Service Committee.

Mr. Chairman, this title, on pages 220 and 222 and 223, includes authorizations for the Secretary of Health, Education, and Welfare to recruit men and women of certain talent, and establishes entrance grades for personnel at levels up to two grades higher than the grade levels provided for under the general schedule, and authorizes the Secretary to appoint personnel of the National Institute of Education without regard to the Civil Service or classification laws.

The lanaguage in title XIV also authorized the President to appoint a National Advisory Council on Education, Research and Development, and it authorizes the Council to employ and fix the compensation of such personnel as may be necessary to carry out its functions without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chap-

ter 53 of title 5 relating to the classification of positions and the General Schedule rates of pay.

Clause 1 of rule XI of the Rules of the House of Representatives provides that the Committee on Post Office and Civil Service shall have jurisdiction over all matters relating to the Federal civil service.

The civil service laws, the classification laws, and the laws relating to the General Schedule all remain in title 5, United States Code, and are clearly under the jurisdiction of the Committee on Post Office and Civil Service.

Therefore, Mr. Chairman, my point of order against title XIV is based on the fact that it contains matters that are clearly and wholly within the jurisdiction of the House Committee on Post Office and Civil Service. There can be no claim or pretense on the part of the House Committee on Education and Labor to jurisdiction in these matters.

Mr. Chairman, I insist that my point of order be sustained.

The CHAIRMAN pro tempore. Does the gentleman from Indiana (Mr. BRADEMAS) desire to be heard on the point of order?

Mr. BRADEMAS. I do, Mr. Chairman.

Mr. Chairman, I rise in opposition to the point of order.

First, Mr. Chairman, I oppose the point of order made by the gentleman from Iowa on the basis that the scope of his point of order is much too broad. The intent of the rule adopted for consideration of the bill now under consideration is to provide that any "titles, parts, or sections" of the bill would be subject to a point of order where the subject matter jurisdiction was in question. In this case, Mr. Chairman, the personnel exemptions to the civil service laws are the only matters in question with respect to jurisdiction.

I contend, therefore, that the question of the point of order should be directed to those provisions with respect to which there is a question of jurisdiction, and not to the entire title.

Second, Mr. Chairman, with regard to the jurisdiction question, legislation to establish a National Institute of Education was introduced in the House during the 91st, and again during the 92d Congresses. In each instance the bills were referred to the Committee on Education and Labor. Extensive hearings were held over a period of 2 years, and at no time was the jurisdictional question raised. I suggest, therefore, Mr. Chairman, that this bill is clearly within the jurisdiction of the Committee on Education and Labor, and germane to the bill before this Chamber.

Third, Mr. Chairman, the specific provisions of concern to which the gentleman from Iowa makes reference have been a part of this legislation since the date of its introduction to the House 2 years ago. The only change made by the Committee on Education and Labor was to limit the number of exemptions from the civil service laws.

The CHAIRMAN pro tempore (Mr. BOLAND). The Chair is prepared to rule.

The gentleman from Iowa makes a point of order against title XIV. The Chair has examined the title, and has found that the language in section 1405, and in section 1406 invades the jurisdiction of the Committee on Post Office and Civil Service.

Under the provisions of House Resolution 661 under which the Committee of the Whole is considering this bill, it is provided that all titles, parts, or sections of the said substitute, the subject matter of which is properly within the jurisdiction of any other standing committee of the House of Representatives shall be subject to a point of order.

The gentleman from Iowa has directed his point of order, not just to the sections on pages 220 through 223, but to the whole title.

Under the rule, the point of order in this case must be sustained against the whole title, and the entire title is thus stricken.

AMENDMENT OFFERED BY MR. BRADEMAS

Mr. BRADEMAS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BRADEMAS: On page 217, line 7, insert the following:

TITLE XIV—NATIONAL INSTITUTE OF EDUCATION

SHORT TITLE

SEC. 1401. This title may be cited as the "National Institute of Education Act".

FINDINGS AND DECLARATION OF POLICY

SEC. 1402. (a)(1) The Congress hereby declares it to be the policy of the United States to provide to every person an equal opportunity to receive an education of high quality regardless of his race, color, religion, sex, national origin, or social class. Although the American educational system has pursued this objective, it has not attained it. Inequalities of opportunity to receive high quality education remain pronounced. To achieve quality will require far more dependable knowledge about the processes of learning and education than now exists or can be expected from present research and experimentation in this field. While the direction of the education system remains primarily the responsibility of State and local governments, the Federal Government has a clear responsibility to provide leadership in the conduct and support of scientific inquiry into the educational process.

(2) The Congress further declares it to be the policy of the United States to—

(i) help to solve or to alleviate the problems of, and promote the reform and renewal of American education;

(ii) advance the practice of education, as an art, science, and profession;

(iii) strengthen the scientific and technological foundations of education; and

(iv) build an effective educational research and development system.

(b) The purpose of this title is to establish a National Institute of Education to conduct and support educational research and development and disseminate education research and development findings throughout the Nation.

ESTABLISHMENT OF NATIONAL INSTITUTE OF EDUCATION

SEC. 1403. There is established in the Department of Health, Education, and Welfare [illegible] by the President with the advice and consent of the Senate. The Director shall perform such duties as are prescribed by the Secretary of Health, Education, and Welfare (hereinafter referred to as the "Secretary") and shall be responsible to such Secretary and not to or through any other officer of that Department. The Director shall not delegate any of his functions to any other officer who is not directly responsible to him. The Director shall receive compensation at the rate prescribed for the Commissioner of Education.

FUNCTIONS OF THE INSTITUTE

SEC. 1404. (a) The Director, through the Institute, shall conduct educational reseach; collect and disseminate the findings of educational research; train individuals in educational research; assist and foster such research, collection, dissemination, or training through grants of technical assistance to, or jointly financed cooperative arrangements with, public or private organizations, institutions, agencies, or individuals; promote the coordination of such research and research support within the Federal Government; and may construct or provide (by grant or otherwise) for such facilities as he determines may be required to accomplish such purposes. As used in this Act the term "educational research" includes but is not limited to research (basic and applied), planning surveys, evaluations, investigations, experiments, developments, and demonstrations.

(b) Not less than 90 per centum of the funds appropriated under section 1408 for a fiscal year shall be expended to carry out this title through grants or contracts with qualified public or private agencies and individuals.

EMPLOYMENT OF PERSONNEL

SEC. 1405. The Secretary may appoint and fix the compensation of such officers and employees as may be necessary to carry out such purposes. Such officers and employees shall be appointed in accordance with chapter 51 of title 5, United States Code.

NATIONAL ADVISORY COUNCIL ON EDUCATIONAL RESEARCH AND DEVELOPMENT

SEC. 1406(a). The President shall appoint a National Advisory Council on Educational Research and Development which shall—

(1) review and advise the Secretary and the Director on the status of education, educational research and the prospective educational needs of our society;

(2) advise the Secretary and the Director of the Institute on development of programs to be carried out by the Institute and on matters of general policy arising in the administration of this Title;

(3) present to the Secretary and the Director such recommendations as it may deem appropriate for the strengthening of educational research, the improvement of methods of collecting and disseminating the findings of educational research and of ensuring the implementation of educational renewal and reform based upon the findings of educational research;

(4) conduct such studies as may be necessary to fulfill its functions under this section; and

(5) prepare an annual report to the Secretary on the current status and needs of educational research in the United States;

(6) submit an annual report to the President on the activities of the Institute, and on education and educational research in general, (A) which shall include such recommendations and comments as the Council may deem appropriate, and (B) shall be submitted to the Congress not later than March 31 of each year; and

(7) meet at the call of the Chairman, [illegible] [illegible] of the members request in writing that a meeting be held.

(b) The Council shall be appointed by the President and shall consist of fifteen mem-

bers appointed for terms of three years; except that (1) any member appointed to fill a vacancy [illegible] shall be appointed only for the remainder of such term, and (2) the terms of office of the members first taking such office shall begin upon enactment of this title and shall expire as designated at the time of appointment, five at the end of three years, five at the end of two years, and five at the end of the first year. One of such members shall be designated by the President as Chairman. Members of the Council who are not regular full-time employees of the United States shall, while serving on the business of the Council, be entitled to receive compensation at rates to be determined by the Secretary, but not exceeding the per diem equivalent for GS-18 for each day so engaged, including travel time and, while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently. The Director of the Institute and the Commissioner of Education shall serve on the Council ex officio.

(c) The Secretary shall provide to the Council such professional, clerical, and other assistance as may be required to carry out its functions.

(d) The President may also appoint other Federal officials as non-voting ex officio members.

(e) The Council is further authorized to obtain services in accordance with the provisions of section 3109 of title 5, United States Code, and it may enter into contracts for the conduct of studies and other activities necessary to the discharge of its duties.

GENERAL PROVISIONS

SEC. 1407. (a) The Director, in order to carry out the purposes of this title, is authorized—

(1) to make, promulgate, issue, rescind and amend rules and regulations governing the manner of operation of the Institute;

(2) to accept unconditional gifts or donations of services, money or property, real, personal or mixed, tangible or intangible;

(3) without regard to section 529 of title 31, United States Code, to enter into and perform such contracts, leases, cooperative agreements or other transactions as may be necessary for the conduct of the Institute's work and on such terms as he may deem appropriate with any agency or instrumentality of the United States, or with any State, territory or possession, or with any political subdivision thereof, or with any international organization or agency, or with any firm, association, corporation or educational institution, or with any person, without regard to statutory provisions prohibiting payment of compensation to aliens;

(4) to acquire (by purchase, lease, condemnation or otherwise), construct, improve, repair, operate and maintain laboratories, research and testing facilities, computing devices, communications networks and machinery and such other real and personal property or interest therein as deemed necessary,

(5) to acquire (by purchase, lease, condemnation or otherwise,) and to lease to others or to sell such property in accordance with the provisions of the Federal Property and Administrative Services Act, patents, copyrights, computing programs, theatrical and broadcast performance rights or any form of property whatsoever or any rights thereunder; and

(6) to use the services, computation capacity, communications networks, equipment, personnel and facilities of Federal and other agencies with their consent, with or without reimbursements. Each department and agency of the Federal Government shall cooperate fully with the Director in making its [illegible] by contract with or assistance to [illegible] and construction projects assisted under this title shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-5a). The Secretary of Labor shall have with respect to the labor standards specified in this section the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. 133z-15) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276(c)).

JOINT FUNDING WAIVER AUTHORITY

SEC. 1408. Where funds are advanced for a single project by more than one Federal agency for the purposes of this title, the National Institute of Education may act for all in administering the funds advanced and any such agency may waiver any technical grant or contract requirement which is inconsistent with the similar requirements of the National Institute or which the National Institute does not impose.

APPROPRIATIONS AUTHORIZED

SEC. 1409. There are authorized to be appropriated for the fiscal year 1972, and for each fiscal year thereafter, such sums as may be necessary to carry out this title, which shall remain available until expended.

Mr. BRADEMAS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD. I shall explain the amendment.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Indiana?

Mr. GROSS. Mr. Chairman, reserving the right to object, is the gentleman putting the language back with respect to the invasion of the jurisdiction of the House Committee on Post Office and Civil Service?

Mr. BRADEMAS. I may respond to the gentleman from Iowa that the gentleman from Indiana is not doing that. The gentleman from Indiana is offering an amendment which provides language contained in the bill under consideration with respect to the National Institute of Education, without any of the language to which the gentleman from Iowa was making reference to on the ground that it invaded the jurisdiction of the Civil Service and Post Office Committee.

Mr. GROSS. Mr. Chairman, with the assurance of the gentleman from Indiana that what has just been accomplished is not in this amendment that he offers, I withdraw my reservation of objection.

Mr. BRADEMAS. I am pleased to give the gentleman from Iowa that assurance.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Indiana?

Mr. DELLENBACK. Mr. Chairman, reserving the right to object, may I direct a question to my colleague, the gentleman from Indiana?

Mr. BRADEMAS. Yes.

Mr. DELLENBACK. Are you saying to my colleague, the gentleman from Iowa, that the amendment which you are proposing is the language of the bill sky sections 1405 and 1406?

Mr. BRADEMAS. I am saying to the gentleman from Oregon and the gentleman from Iowa [illegible]

Mr. DELLENBACK. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The CHAIRMAN. The gentleman from Indiana (Mr. BRADEMAS) is recognized.

(Mr. BRADEMAS asked and was given permission to revise and extend his remarks.)

Mr. BRADEMAS. Mr. Chairman, I shall be very brief.

The purpose of my statement has already been made clear in my colloquy with the gentleman from Iowa and the gentleman from Oregon. The amendment provides for the establishment of a National Institute of Education in the Department of Health, Education, and Welfare for the purpose of improving the processes of teaching and learning in the United States.

I might say in this respect, Mr. Chairman, that the bill under consideration contained in my amendment is the measure which President Nixon proposed in his message to Congress of March 3, 1970, on education reform in which the President urged the creation of a National Institute of Education, in the words of the President, as a "focus for educational research and experimentation." Again to quote President Nixon—

We are not getting as much as we should out of the dollars we spend.

The President called for a searching reexamination of our entire approach to learning.

I might say that this bill has had strong bipartisan support. The members of the Select Subcommittee on Education on both sides of the aisle made a significant contribution to it. The measure also enjoyed widespread support from both sides of the aisle in the full Committee on Education and Labor.

I would like to express my appreciation for the strong support given this measure by the chairman of the Education and Labor Committee, Mr. PERKINS, and the ranking Republican on the committee, Mr. QUIE. My colleagues on the subcommittee Mrs. MINK, Mr. MEEDS, Mr. SCHEUER, Mr. CLAY, Mr. O'HARA, Mr. REID of New York, Mr. HANSEN, Mr. PEYSER, and Mr. KEMP, have devoted many hours to studying this measure and their support is deeply appreciated.

Mr. Chairman, I hope very much that this measure will win the strong support of Members on both sides of the aisle.

Mr. REID of New York. Mr. Chairman, I move to strike out the last word and rise in support of the amendment.

Mr. Chairman, in his message on educational reform in March 1970, President Nixon proposed that the Nation establish a National Institute of Education to conduct basic and applied educational research both within the Institute and by contract with universities and other organizations. In the face of growing

public disenchantment with schools and increasing resistance to tax levies substantial efforts have been made by the Congress to institute educational reform.

Federal money has been voted to assist schools with construction, improve educational programs, and strengthen educational administration. The Congress has given high priority to public education, yet it is apparent that the influx of additional Federal money into the schools has scarcely dented the problem. We have come to rely on a strategy of doing more of the same—more money for staff training and curriculum development, more money for special groups, special objectives and for different age levels.

It is a sad fact, Mr. Chairman, that out of our tremendous national investment in education, less than one-third of 1 percent goes to research and development, and the proportion is steadily diminishing. The Institute, Mr. Chairman, will be a focal point for a broad range of new people interested in educational reform. It will provide new stability for research policies so that plans can be implemented and results obtained. It will provide new visibility to the Nation's research effort in education. It will make possible a policy to attract first-rate people so that we can build highly competent staffs that can advise and help on the question of exactly what education is doing.

For a long time we have needed thoughtful, first-rate research on the meaning of education, with appropriate dissemination to educators throughout the country.

Since enactment of the Cooperative Research Act in 1956, research has made a disappointingly small impact on educational practice in America. Although Federal research support has increased the amount of research work in education, the inability of those still small efforts to make a visible dent on the tremendous problems facing educators today looms much larger than their limited accomplishments. Important gaps in our understanding of the learning process remain. We still cannot tell what methods will work with what children, or why. We still know relatively little about motivation, about what turns students on, or about the relevance of curricula. Moreover, we are just beginning to learn of the critical importance of early childhood education between the ages of 1 and 5 when the rate of learning may be at its peak.

Good research findings gather dust on the shelves for lack of an effort to translate concepts into classroom techniques. In the absence of strong Federal direction, too much research has dwelled on the inconsequential, too little on the major crises troubling our schools.

Mr. Chairman, it should be clear that the disappointing record of education research is the result of a curious neglect for this important function. We can ill

[illegible] sooner we get down to serious work—the sooner we can be in to see results. Establishing a National Institute of Education represents the critical first step down that road. I urge my colleagues not to turn their backs on this opportunity to establish strong institutional leadership in educational research and development. Without the help of research and development, American education can only look forward to more of the same. For too many Americans, that just is not enough.

I will be happy to yield to the distinguished ranking member of the Committee on Education and Labor (Mr. QUIE).

Mr. QUIE. I thank the gentleman for yielding. I strongly support the inclusion of this title in the act. To me this may be the most important title. If the research turns out as I expect it will, this will prove to be the most important title.

Quoting the President, he said:

> We must stop pretending we understand the mystery of the learning process.

I believe if we are going to get at that, we must give the kind of leadership to research in education that some time ago was given to research in health at the National Institutes of Health. The only way we will do it is with the proposed National Institute of Education.

Mr. REID of New York. I thank the gentleman for his comments.

Mr. Chairman, I yield back the balance of my time, and I urge support for the amendment.

Mr. SCHERLE. Mr. Chairman, I rise in oppostion to the amendment.

(Mr. SCHERLE asked and was given permission to revise and extend his remarks.)

Mr. SCHERLE. Mr. Chairman, my amendment filed at the desk eliminates title 14 from this bill a provision which opens up the Federal Treasury to the same educational researchers, without any assurances that the quality of education would be improved.

The Office of Education in the last 10 years has spent approximately a billion dollars in educational research. Most of this was contracted out to various educational research organizations. Under this bill all that would happen would be that a new organization, the National Institute of Education, would be created to do the same thing which is being done now. In other words, the same people who have been doing most of the projects would still be funded. The only obvious changes would be items such as the title on the door and the agency names on new stationery. There is no protection in this bill which would limit the number of employees which this agency could hire. There is not even a limit as to the amount of money which the agency could have appropriated. This new bureaucracy could hire 1,000 or 10,000 people and pay them whatever they want. The best solution to the present problem would be a general overhaul—not a new Government agency.

Educational research is now operated under the Commissioner of Education; under this bill the new agency would be under the Secretary of Health, Education, and Welfare, another bureaucratic responsibility, and they cannot handle what they have now. How is it an improvement in educational research to bypass the Commissioner of Education? Even the administration's proposal placed this new institution under the Commissioner of Education.

By supporting this amendment, the House will have an opportunity to reject the concept that the way to solve problems is to recast an old agency with a new name, increase its size and scope with the same people who ran the old program.

I ask that my amendment be adopted.

Mr. Chairman, earlier I filed an amendment at the desk which would have eliminated title XIV from the bill. This provision simply opens up the Federal Treasury to the same educational researchers without any assurance that the quality of education would be improved.

The Office of Education in the last 10 years has spent approximately $1 billion in educational research. Most of this was contracted out to various educational research organizations. Under this bill all that would happen would be that a new organization, the National Institute of Education, would be created to do the same thing which is being done now. In other words, the same people who have been doing most of the projects would still be funded. The only obvious changes would be items such as the title on the door and the agency names on new stationery.

There is no protection in this bill which would limit the number of employees which this agency could hire. There is not even a limit as to the amount of money which the agency could have appropriated. This new bureaucracy could hire 1,000 or 10,000 people and pay them whatever they want.

The best solution to the present problem would be a genuine overhaul, not a new governmental agency.

Educational research is now operated under the Commissioner of Education. Under this bill the new agency would be under the Secretary of Health, Education, and Welfare, another bureaucratic responsibility, and they cannot handle what they have now.

How is it an improvement in educational research to bypass the Commissioner of Education? Even the administration's proposal placed this new institution under the Commissioner of Education.

By defeating this amendment, the House will have an opportunity to reject the concept that the way to solve problems is to recast an old agency with a new name and increase its size and scope with the same people who run the old program, with additional waste of time and effort.

I ask that the amendment be defeated.

Mr. REID of New York. Mr. Chairman, will the gentleman yield?

Mr. SCHERLE. I yield to the gentleman from New York.

Mr. REID of New York. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I would say the gentleman is correct. We have spent $1 [illegible]

Mr. SCHERLE. If the gentleman will pardon me, the figure is $1 billion.

Mr. REID of New York. That is what I said. The gentleman is correct. We have spent $1 billion on research on

cation. But is the gentleman aware [illegible] have spent in the same period [illegible] in research on agriculture, and [illegible] not spend at least that on education?

Mr. SCHERLE. At least the money spent on agriculture was spent under the Department of Agriculture and not taken out by the Department, as the Commissioner on Education has had done. We have all had intolerable experiences as far as the Department of HEW is concerned and to take this provision out from under the Commissioner of Education and place it solely under that incompetent agency would be a sad mistake.

Mr. Chairman, I ask that we vote down the amendment.

Mr. PERKINS. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I will take only 1 minute to urge the members of the committee to support the amendment. There was strong support in committee for the establishment of a National Institute of Education within the Department of HEW. In my judgment the proposal offers great promise.

Mr. Chairman, I urge support of the amendment.

Mr. DELLENBACK. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, there is really a great deal that could be said on this. I commend the gentleman from Indiana (Mr. BRADEMAS) and his colleague, the ranking minority member of the committee, the gentleman from New York (Mr. REID) for their outstanding work on the subcommittee which wrestled long and hard with this concept of a national institute. They have here wrestled with one of the great crying needs of this Nation—educational research in a coordinated manner. I could talk at quite some length about this particular title. It is a modest one. Like many other provisions of this bill do, it does not call for large sums of new money, particularly initially as we move forward. It is dealing with the same type of crisis, this time in education that we faced some years ago when we needed research in the health field, and we created the National Institute of Health.

We had a need in aeronautics and space, and we created the Aeronautics and Space Administration, and we had a need in science, and we created the National Science Foundation. This is really very needed. I urge support of the amendment.

Mrs. GREEN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. DELLENBACK. I yield to the gentlewoman from Oregon.

Mrs. GREEN of Oregon. Mr. Chairman, the Office of Education has about $514 million in funds, not under any formula, to spend as it wants. Is it not also true they have spent hundreds of millions of dollars in research of various types in the Office of Education? Would the gentleman say that if the Office of Education had done its job, that the National Institute of Education would be required?

Mr. DELLENBACK. If I may respond, the years a series of programs in which the Office of Education has not measured up to the responsibilities that this Congress sought to place upon its shoulders. This goes back a great many years.

But still, even if that job had been done as the Congress had sought to place it upon those shoulders when various programs were created, I feel this sort of concentrated attention of personnel and of effort in the future would nevertheless be called for.

Mrs. GREEN of Oregon. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I do not see this as one of the crucial issues in the bill before us. I do, however, want to call to the attention of the Members of the House that in the field of higher education this probably has one of the lowest priorities.

The Office of Education has had over a period of years many hundreds of millions of dollars for research. Let me give an example. There was a grant given to a corporation here in Washington for $900,000, to find out if young people, college students, could gather accurate survey information. The Office of Education did not want new information. They had already sent out paid professionals to gather the information. They only wanted to find out if the students could gather accurate information.

That experiment cost $900,000. I told one reporter, that if they had come to me, for $1.50 I could have told them that some students would be able to and some would not.

After that contract was given and after $900,000 was spent, the HEW audit itself questioned items amounting to $283 million.

This corporation asked for renewal of the contract for the year 1971, and they asked that it be given on a sole source bid. In addition, they asked that the second audit be postponed. The Secretary of HEW obliged. He recommended to the Small Business Administration that it be on a sole source bid and they gave it to the Small Business Administration. That occurred before the audit for the previous year, in which $283,000 was questioned.

There are any number of other contracts which in my judgment show there is no consideration for the expenditure of funds.

If you will look at the language of NIE, you will find there has never been such broad language. There is nothing the NIE can do that the Office of Education cannot do, and there is nothing the Office of Education cannot do that the Office of NIE is not going to be doing.

I think that the action yesterday showed the lack of confidence of this Congress in the Department of HEW, when we talked about political interns. I share those views.

I am not going to argue long on this, but it does seem to me that in the Health, Education, and Welfare Department we have a National Institute of Health. Would you then advocate that we set up an Office of Health?

[illegible] cation? Supposedly the [illegible] enable them to do research and duplicate the work already being done in the Office of Education.

May I just suggest that in my judgment if you want to save money, if you want to put money into the colleges and universities, if you want to improve education, and if you are going to cut funds this is the place to cut them.

Mr. QUIE. Mr. Chairman, I rise in support of the amendment.

(Mr. QUIE asked and was given permission to revise and extend his remarks.)

Mr. QUIE. Mr. Chairman, on the health side of HEW there is a Public Health Service and a National Institute of Health. I do not believe anybody advocates that we put the National Institute of Health under the Public Health Service.

What the gentlewoman said about the Office of Education is true. I recall when an individual—I will not mention his name—came here to head cooperative research under one of the two previous administrations, and said that nothing good had happened prior to that. When he left the Office of Education he left in disappointment.

I do not believe we are going to have the most effective research program if we leave it under the Office of Education. I believe we need a National Institute of Education in order to accomplish it. This is what the administration is asking for.

The administration is asking for a National Institute of Education in order to separate this from the operation of the Office of Education.

We spend too little on research in education and the learning process. We know so little about it.

Just a little while ago we passed a child development bill. It is in conference now. We are having a hard time agreeing on that bill.

One of the problems on many ventures in education is that we do not really know enough about the learning process. The research has not been accomplished.

It is something like trying to find a cure for cancer. We cannot ask the doctors to cure cancer unless we conduct the research to tell them how to do it.

That is the really severe problem in education. We have severe problems that we once ignored. Once the children could go out to work without an education, but they need to be literate and they need skills to hold jobs. We just do not know how best to do this.

Something could be advocated other than to let the Office of Education run the research, but nobody has come up with a recommendation. The only recommendation I have seen so far, which seems to make sense to me, is the National Institute of Education. That is why I ask for adoption of the amend-

ment offered by the gentleman from Indiana (Mr. BRADEMAS.)

Mrs GREEN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. QUIE. I yield to the gentlewoman from Oregon.

Mrs. GREEN of Oregon. I would not be quite as concerned about setting up an entirely new agency in the executive department if we had a provision in this title which said we would phase out research in the Office of Education.

To the best of my recollection, there is no provision in this title that says because now we are going to finance the NIE that we will phase out the research funds in OE. I suspect they will continue as they have and we will see hundreds of millions of dollars going down the drain while our schools decay before us.

Mr. QUIE. I want to remind you that the administration asked for $3 million for planning and development of the NIE for the first year. That indicates they want to spend money only to develop a sensible approach to planning so that they know what they want to do and not now repeal the authority and put it into the NIE and jump headlong into the program. We have jumped headlong into programs before, and we are not exactly sure of what we want to do in them. I think they will proceed slowly and be sure of their ground before they get into a full development of the NIE.

Mr. REID of New York. Will the gentleman yield?

Mr. QUIE. I yield to the gentleman.

Mr. REID of New York. In further reference to what the gentleman is saying, President Nixon in his message to the Congress on the National Institute of Education said:

> Until we know why education works when it is successful, we can know little about what makes it fail when it is unsuccessful. This is knowledge that must precede any rational attempt to provide our every student with the best possible education.

The President's position is correct, and it is vital for this program.

I hope the amendment will be supported.

Mr. STEIGER of Wisconsin. Will the gentleman yield?

Mr. QUIE. I yield to the gentleman from Wisconsin.

Mr. STEIGER of Wisconsin. I want to associate myself with the remarks in support of the amendment to include the NIE. Am I correct in my recollection that the inclusion of the NIE as a title in the higher education bill was passed unanimously in both the subcommittee, as well as the full committee?

Mr. QUIE. Well, I am pretty certain it was unanimous in the full committee, but I cannot tell about the subcommittee.

Mrs. GREEN of Oregon. Will the gentleman yield?

Mr. QUIE. I yield to the gentlewoman from Oregon.

Mrs. GREEN of Oregon. The bill did not [illegible] what the picture is on that, because I do not serve on that subcommittee. In the full committee I do not recall the vote, but I reserved the right to oppose this particular title on the floor.

Mr. MEEDS. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, not only have we had a paucity of educational research, not all of it good, I would tend to agree with the gentlewoman from Oregon, but we have not utilized properly what educational research we have.

I think one of the primary functions of the NIE is to be an umbrella agency, if you wish, over educational research being done in this country.

One of the great problems we have in the Office of Education is that they have it broken down so that educational research is being done by different departments. In some departments they do not know what the other departments are doing. Therefore, there is no coordination of the work or of the results and then a dissemination of these results to the areas that can properly utilize them.

We have the same thing happening in the States. By contracts through the Office of Education, educational research is being done all around this Nation, but that is not being properly backed up through the stream and into the place where it can be disseminated so that we do not end up doing the same kind of research all over the Nation.

A prime function of the NIE will be to provide the collection of data and dissemination of data so as to cut out some of the duplication.

Mr. BRADEMAS. Will the gentleman yield to me?

Mr. MEEDS. I yield to the gentleman from Indiana.

Mr. BRADEMAS. I thank the gentleman from Washington.

I want to make only one other observation, Mr. Chairman, and that is that precisely, because the research and development effort that has been conducted and supported by the Office of Education over the years has not been as fruitful or as effective as it ought to be, that committee has provided for the establishment of a National Institute of Education that is not under the control either of the Office of Education or of the Commissioner of Education.

Most of the research activities now vested in the Office of Education will be transferred to the Institute. The National Institute of Education will assume responsibility for basic and applied research and development centers; Regional Education Laboratories; researcher training and experimental schools. The Office of Education will retain responsibility for education policy research relating to Office of Education programs, statistical gathering, some demonstration projects, and a modest share of dissemination activities serving both agencies. The Institute, however, will have principal responsibility for dissemination of the results of research.

Although the National Institute of Education would conduct a small amount of in-house research, most of its work would be performed by grant, contract, [illegible] would have the authority to carry on a broad range of research and development activities at every level of education, preschool through postgraduate school, within formal institutions of learning and in nonformal learning situations.

The new agency would be placed within the Department of Health, Education, and Welfare as an entity separate from the Office of Education and the Commissioner of Education. The distinct organizational identity of the Institute would permit it both the visibility and flexibility it requires to be effective.

Clearly, if educational research is to have an impact upon educational practice, the agency responsible for it must work effectively with other agencies engaged in educational programing or educational research. These include the Office of Education, the Office of Child Development, the National Institute of Child and Human Development, and the National Institutes of Health, all in the Department of Health, Education, and Welfare. Establishment of the Institute within this Department is therefore appropriate.

Yet it is also clear that only by separating the educational research and development effort from its present location within the Office of Education and from the direction of the Commissioner of Education can major gains be made in strengthening the effort:

A separate research and development agency is freer to foster approaches significantly different from existing institutional patterns than is an agency closely tied to those patterns through its major support functions.

Placing research and development in a separate agency allows that agency's leadership to adjust normal administrative patterns to fit the special character of a research and development agency.

A separate research and development agency can be attractive to highly creative and independent scholars who have difficulty operating in a normal bureaucratic setting.

Creating a separate agency for research and development makes it possible to assure greater stature to its leadership than is now possible.

Creating a separate agency assures that funds will be used for research and development and not diverted to what are essentially operating projects.

Finally, establishing an educational research and development agency outside the Office of Education, and from under the direction of the Commissioner of Education, will attract many excellent people who have been reluctant to deal with the research and development program of the Office of Education. Office of Education research has been plagued by a negative image—for management resulting in research of poor quality and of little substance; for failure to focus on genuine problems in education; and for insensitivity to any interests but those of the established educational leadership. A new agency outside the Office of Education, and from under the direction of the Commissioner of Education, can develop research and develop- [illegible] sought to be responsive to the [illegible] that have been expressed in this regard. I thank the gentleman for yielding.

The CHAIRMAN pro tempore. The question is on the amendment offered by

man from Indiana [Mr. BRADE... ROLL—153 ... the Nation should have an ...

division, and there were—ayes 54, noes 50.

TELLER VOTE WITH CLERKS

Mr. ASHBROOK. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mr. ASHBROOK. Mr. Chairman, I demand tellers with clerks.

Tellers with clerks were ordered; and the Chairman pro tempore appointed as tellers Mr. BRADEMAS, Mr. SCHERLE, Mr. REID of New York, and Mrs. GREEN of Oregon.

The Committee divided, and the tellers reported that there were—ayes 210, noes 153, not voting 68, as follows:

[Roll No. 351]

[Recorded Teller Vote]

AYES—210

Abourezk	Fish	Nedzi
Abzug	Foley	Nelsen
Adams	Ford, Gerald R.	Obey
Addabbo	Ford, William D.	O'Hara
Albert	Forsythe	O'Konski
Anderson, Calif.	Fraser	O'Neill
Anderson, Ill.	Frelinghuysen	Pepper
Andrews, N. Dak.	Frenzel	Perkins
Arends	Frey	Peyser
Aspin	Fulton, Tenn.	Pike
Badillo	Gallagher	Podell
Bafalis	Gibbons	Preyer, N.C.
Begich	Goldwater	Pryor, Ark.
Bell	Goodling	Pucinski
Bergland	Grasso	Quie
Biester	Gray	Quillen
Bingham	Green, Pa.	Railsback
Blatnik	Grover	Rangel
Boggs	Gude	Reid, N.Y.
Boland	Hamilton	Rhodes
Bolling	Hanley	Riegle
Bow	Harrington	Robinson, Va.
Brademas	Harsha	Robison, N.Y.
Brasco	Harvey	Rodino
Broomfield	Hastings	Roe
Brotzman	Hathaway	Roncalio
Brown, Mich.	Hawkins	Rooney, Pa.
Broyhill, N.C.	Hechler, W. Va.	Rosenthal
Buchanan	Heins	Roush
Burton	Helstoski	Roybal
Byrnes, Wis.	Hillis	Ryan
Byron	Horton	St Germain
Camp	Howard	Sarbanes
Carey, N.Y.	Jacobs	Saylor
Carter	Karth	Scheuer
Cederberg	Kastenmeier	Schneebeli
Chamberlain	Keating	Schwengel
Chisholm	Keith	Seiberling
Clausen, Don H.	Kemp	Shipley
Clay	Kluczynski	Shriver
Cleveland	Koch	Smith, N.Y.
Collier	Kyros	Snyder
Collins, Ill.	Latta	Springer
Conable	Leggett	Staggers
Conte	Lent	Stanton, James V.
Conyers	Link	Steele
Corman	Long, Md.	Steiger, Wis.
Culver	McCloskey	Stokes
Davis, Ga.	McCormack	Symington
Davis, Wis.	McCulloch	Talcott
Dellenback	McDade	Terry
Dellums	McDonald, Mich.	Thompson, N.J.
Denholm	McFall	Thomson, Wis.
Dent	McKevitt	Thone
Dingell	McKinney	Tiernan
Donohue	Maillard	Van Deerlin
Dow	Mathias, Calif.	Vander Jagt
Dorman	Matsunaga	Vanik
Duncan	Meeds	Veysey
Dwyer	Meicher	Waldie
Eshleman	Metcalfe	Ware
Esch	Mikva	Whalen
Evans, Colo.	Miller, Calif.	Whalley
Fascell	Miller, Ohio	Widnall
Findley	Mink	Wilson, Bob
Fish	Mitchell	Wolff
Flood	Moorhead	Wydler
Flynt	Morgan	Wyman
Foley	Morse	Yates
Ford, Gerald R.	Moss	Zwach

Annunzio	Hosmer	Powell
Archer	Hull	Price, Ill.
Ashbrook	Hammer-schmidt	Price, Tex.
Ashley	Hansen, Wash.	Purcell
Baring	Hays	Randall
Bennett	Heckler, Mass.	Rarick
Betts	Henderson	Reuss
Bevill	Hicks, Mass.	Roberts
Biaggi	Hicks, Wash.	Rogers
Blackburn	Hogan	Rooney, N.Y.
Bray	Holifield	Rostenkowski
Brinkley	Hull	Runnels
Brooks	Hungate	Ruth
Burke, Fla.	Hutchinson	Sandman
Burke, Mass.	Ichord	Satterfield
Burleson, Tex.	Johnson, Pa.	Scherle
Burlison, Mo.	Jonas	Schmitz
Byrne, Pa.	Jones, N.C.	Scott
Caffery	Kazen	Shoup
Casey, Tex.	Kuykendall	Sikes
Chappell	Landgrebe	Slack
Clancy	Lennon	Smith, Calif.
Colmer	McClory	Smith, Iowa
Cotter	McCollister	Spence
Crane	McEwen	Steed
Daniel, Va.	McKay	Steiger, Ariz.
Daniels, N.J.	McMillan	Stratton
Danielson	Mahon	Stubblefield
Davis, S.C.	Mann	Sullivan
de la Garza	Mathis, Ga.	Teague, Calif.
Delaney	Mayne	Teague, Tex.
Dorn	Mazzoli	Thompson, Ga.
Dowdy	Mills, Ark.	Ullman
Downing	Mills, Md.	Vigorito
du Pont	Minish	Waggonner
Edwards, Ala.	Minshall	Wampler
Fisher	Mizell	White
Flood	Mollohan	Whitehurst
Flowers	Monagan	Whitten
Flynt	Montgomery	Williams
Fountain	Murphy, Ill.	Winn
Fuqua	Myers	Wyatt
Gallifianakis	Natcher	Yatron
Garmatz	Nichols	Young, Fla.
Gaydos	Nix	Young, Tex.
Gettys	Passman	Zablocki
Giaimo	Patten	

NOT VOTING—68

Anderson, Tenn.	Gubser	Michel
Aspinall	Hagan	Mosher
Baker	Halpern	Murphy, N.Y.
Barrett	Hanna	Patman
Belcher	Hansen, Idaho	Pirnie
Blanton	Hebert	Poage
Brown, Ohio	Hunt	Rees
Broyhill, Va.	Jarman	Rousselot
Cabell	Johnson, Calif.	Ruppe
Carney	Jones, Ala.	Sebelius
Celler	Jones, Tenn.	Sisk
Clark	Kee	Skubitz
Clawson, Del	King	Stanton, J. William
Collins, Tex.	Kyl	Stephens
Coughlin	Landrum	Stuckey
Dennis	Lloyd	Taylor
Derwinski	Long, La.	Udall
Devine	Lujan	Waggonner
Dickinson	McClure	Wiggins
Diggs	Macdonald, Mass.	Wilson, Charles H.
Edwards, La.	Madden	Wright
Evins, Tenn.	Martin	Wylie
Griffiths		Zion

So the amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

TITLE XV—ETHNIC HERITAGE STUDIES

SEC. 1501. The Higher Education Act of 1965 is amended by inserting after title XIV the following new title:

"TITLE XV—ETHNIC HERITAGE STUDIES

"STATEMENT OF POLICY

"SEC. 1501. In recognition of the heterogeneous composition of the Nation and of the fact that in a multiethnic society a greater understanding of the contributions of one's own heritage and those of one's fellow citizens can contribute to a more harmonious, patriotic, and committed populace, and in recognition of the principle that all students in the elementary and secondary schools of the Nation should have an opportunity to learn about their own ethnic heritages and to study the contributions to the Nation made by other ethnic heritages.

"ETHNIC HERITAGE STUDIES PROJECTS

"SEC. 1502. The Secretary is authorized to arrange through grants to institutions of higher education for the establishment and operation of a number of ethnic heritage studies projects. Each such project shall carry on activities related to a single ethnic heritage or a group of ethnic heritages.

"AUTHORIZED ACTIVITIES

"SEC. 1503. Each project provided for under this title shall—

"(1) develop curriculum materials for use in elementary and secondary schools which deal with the history, geography, society, economy, literature, art, music, drama, language, and general culture of the ethnic heritage or group of heritages with which the project is concerned, and the contributions of that ethnic heritage or group of heritages to the American heritage.

"(2) disseminate curriculum materials to permit their use in elementary and secondary schools throughout the Nation, and

"(3) provide training for persons using or preparing to use the curriculum materials developed under this title.

"ADMINISTRATIVE PROVISIONS

"SEC. 1504. (a) In carrying out this title, the Secretary shall assure that grantees utilize (1) the research facilities and personnel of museums and of institutions of higher education having a special knowledge of the ethnic heritage or group of ethnic heritages concerned, (2) the special knowledge of ethnic groups in local communities, (3) the expertise of elementary and secondary school teachers, and (4) the talents and experience of any other groups such as foundations, civic groups, and fraternal organizations, which can contribute to an understanding of the ethnic heritage or group of ethnic heritages with which the project is concerned.

"(b) Funds appropriated to carry out this title may be used to pay all or part of the cost of establishing and operating the projects, including the cost of research materials and resources, academic consultants, and the cost of training of staff for the purpose of carrying out the purpose of this title.

"NATIONAL ADVISORY COUNCIL

"SEC. 1505. (a) There is hereby established a National Advisory Council on Ethnic Heritage Studies consisting of fifteen members appointed by the Secretary who shall be broadly representative of the Nation's identifiable ethnic groups and who shall be appointed, serve, and be compensated as provided in part C of the General Education Provisions Act, except that no member shall serve more than two years.

"(b) Such Council shall, with respect to the program authorized by this title, carry out the duties and functions specified in part C of the General Education Provisions Act.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 1506. There is authorized to be appropriated to carry out this title for the fiscal year 1972, the sum of $20,000,000, and for the fiscal year 1973, the sum of $40,000,000."

Mrs. GREEN of Oregon (during the reading). Mr. Chairman, I ask unanimous consent that title XV be considered as read, printed in the RECORD, and open to amendment at any point.

De Biaggi

of a minerals conservation education program. Since 1937 Federal funds have supported agricultural research and training at university levels in each of our States. These have proven very beneficial to the agricultural industry. At the same time practically no attention has been given to the problem of mineral conservation and production and I think if we were to really appreciate the facts of the case we would find that our Nation is absolutely dependent on minerals for maintaining not only our standards of living but our very basic security. Without antimony we could have no batteries to start our automobiles. Without bauxite we would have no aluminum for aircraft, missiles, teakettles or house sidings and all the other aluminum manufactured goods. Without cobalt we would have no jet engines. Without copper our electrical energy system would be chaotic. Without tin we would be short of everything from cans to engine bearings.

In spite of the importance of these minerals for our Nation we are doing very little to train the scientists and engineers needed for this industry. A recent study indicated that there are 65,000 such scientists and engineers employed in the mineral fields. Even more recent statistics show that in 1970 there were only 120 bachelor degrees awarded in mineral engineering, the demand was three times that and the Bureau of Mines could have employed all of the 1970 graduates all by itself. The number of graduates are declining and the demand for their services will double in 5 years. The provisions which the act provides for the establishment and maintenance of a competent and qualified mineral resources conservation institute are essential if we are to reverse this trend.

Another section, I would like to mention specifically is title 16, the Occupational Education Act of 1971. As I indicated previously the Smith-Hughes Act of 64 years ago first brought the Federal Government into the role of assisting local schools in the preparation of students to earn a living. This effort was broadened in 1963, and again in 1968, however, we are still facing very serious problems in that large numbers of students continue to leave our secondary schools completing their formal education and yet without any saleable skills. They just are not trained to hold a job and there is little wonder that these people who are still in their teens have little prospects for the future in a highly technical society other than welfare or crime.

One of the basic problems is that 80 percent of our secondary school students are enrolled in college preparatory courses and yet only 17 percent of these students ever achieve a degree. The result is that hundreds of thousands of people in high school have no clear-cut vocational goals nor do they have any

is being experienced on our high school and college campuses.

We are wasting a tremendous amount of human skills and therefore, I feel that the Occupational Education Act of 1971 and its programs of counseling and training at elementary and secondary school levels are of tremendous importance, not only will implementation of this act provide better counseling and better job preparation but I feel equally important, it will provide better placement programs for in the words of the committee:

> Schools must become much more interested in what happens to their students after they graduate. In other words, schools must become placement agencies for their students.

In summary there are 28 million people in this Nation between the ages of 18 and 24. More than 18 million of these are in the civilian labor force. They entered this force in many instances with a minimum of preparation and training as can be demonstrated by the fact that less than 2 million of these or one out of eight individuals have received any occupational preparation training prior to the time he entered the labor market.

Finally, Mr. Chairman, I mention one of the basic provisions of the act, title XIV, which creates a National Institute of Education. As the President has said:

> We are not getting as much as we should out of the dollars we spend on education.

In many instances, I feel that we are teaching the children of a space age with horse and buggy techniques.

We do not know all that we should about the science and technology of teaching. Today we spend three-tenths of 1 percent of our educational dollar on research. The man-years of research and development in the field of education total slightly over 5,000. Compare this with a defense research and development program covering 10 percent of our total investment or a health research and development program involving nearly 60,000 people expending 5 percent of our total health budget. Defense and health are important items, but is not education of equal importance? It is vital that we take appropriate steps to explore more fully the whys and wherefores of learning and teaching processes so that we can achieve more efficiencies and effectiveness in our schools. I believe it is and, therefore, give my full support to the National Institute of Education which would have the authority to carry on a broad range of research and development activities at every level of education, preschool through postgraduate school, within formal institutions of learning and in nonformal learning situations.

Mr. BOLAND. Mr. Chairman, I want to express my support for the Higher

to take has been clogged by rising costs. Their students, too, are confronted by almost unprecedented financial problems: tuition rates are climbing beyond the reach of most American families.

The bill now before us would offer welcome relief. Indeed, it is hardly an exaggeration to say that the future of American higher education may hinge on the enactment of this bill.

Let me sketch out, just briefly, the background of the 1971 Higher Education Act.

Six years ago the Congress enacted legislation to strengthen higher education and broaden educational opportunity. This landmark bill, of course, was the 1965 Higher Education Act. Its record has been impressive. The assistance it offered has enabled our colleges to begin to expand community services and continuing education programs—programs that bring their own unique brand of enthusiasm to bear in resolving community problems. Colleges and universities have collected grant after grant to acquire needed library and research materials. Other grants answering a need equally pressing were set up for the establishment or expansion of programs of library or information science. Fellowships and traineeships, too, became possible. Special assistance goes to troubled institutions struggling to survive—predominently black institutions, for example. Special grants to encourage cooperative arrangements among institutions, establish national teaching fellowships, and recruit the skills of retired teachers through professor emeritus grants have also been set up.

One major thrust of the 1965 act aimed at building the kind of comprehensive student aid program that would give every qualified high school graduate the opportunity for a postsecondary education. The effort made possible an expanded NDEA student loan program and a broader college work-study program. Two altogether new programs were initiated—a program of education opportunity grants, and one of federally insured and subsidized loans. These programs have been bringing higher education within the grasp of thousands. In fiscal 1971 alone, more than 500,000 students received NDEA loans. About 430,000 students took part in work-study programs, and 290,000 students showing exceptional financial need received educational opportunity grants. One million student loans were insured under the guaranteed student loan program.

Mr. Chairman, I am convinced that we should extend all these programs in our efforts to improve quality and opportunity in higher education. But we must do much more. We all know about the problems that have besieged our economy since enactment of the Higher Education Act 6 years ago. No institutions have been harder hit by inflation than col-

[illegible] studies and reports to the committee made it very clear that there is a direct relationship between this deficiency and the current unrest and discontent which

[illegible] continuing to [illegible] financial problems. Their plight, alarming for the past decade, now verges on desperation. Every step forward they have tried

[illegible] lege and universities. It has been the dramatic increase in the number of students enrolled in our college and universities. It has been

I understand it, the purpose of the unanimous-consent request. Therefore, the use of the words "final disposition," it seems to me, covers exactly what the majority leader has in mind and deals with all contingencies.

Mr. MANSFIELD. We could agree further to the vote on final disposition but I think it is understood.

Mr. BYRD of West Virginia. Mr. President, does not final disposition mean the vote on the House amendment as amended by the Senate committee substitute, as amended, if amended?

Mr. ALLEN. The committee substitute might be tabled by that time. It might not be before the Senate. I think "pending question" would be the way to do it.

Mr. BYRD of West Virginia. Mr. President, does not final disposition really mean the vote to concur in the House amendment—in the nature of a substitute for S. 659—with an amendment in the nature of a substitute, as amended, if amended? [Laughter.]

Mr. MANSFIELD. It is kind of like that. [More laughter.]

Mr. ALLEN. But would it then be final disposition if it has to go back to the House before action? That would not be final disposition.

Mr. JAVITS. It would be final disposition by the Senate. That is all I said. If we commence voting at 2 p.m. on Wednesday and take one or more votes, whatever number is required by the parliamentary situation leading to final disposition on the measure by the Senate, that would take care of everyone's contingency. Whatever votes are required will be taken beginning at 2 p.m., whatever is the given parliamentary situation at that time leading to final disposition by the Senate.

The PRESIDING OFFICER. The Senator from New York means not later than the designated hour.

Mr. JAVITS. Exactly, Mr. President.

Mr. ALLEN. That would rule out any amendments after the reaching of that time.

Mr. JAVITS. That is correct. That is finality.

Mr. ALLEN. I do not see why we have to agree at this time to what the nature of the pending question is to be. That is the point, because that might not be the pending question.

Mr. JAVITS. The pending question might be a vote on the committee amendment. We would not want to abort our proceedings by ending at that point. The distinguished Senator from Michigan (Mr. GRIFFIN), for instance, suggested that at 2 p.m., when we begin voting, whatever series of votes are required, there may be amendments that are to be voted on up or down, so that they will be voted on, as that is what we do all the time, but we know that at the beginning of 2 p.m. on Wednesday, we deal with whatever number of votes are required to lead to final disposition by the Senate. It seems to me, in that way, that everyone's rights are protected. We know it is finality but we do not try to guess what the parliamentary situation will be.

Mr. ALLEN. That is the point that the junior Senator from Alabama is raising, that we should not seek to state what measure will be pending before the Senate at that time.

Mr. MANSFIELD. That is what I am intending to do. The Senator from Alabama may rest assured, as I am sure he is fully aware, that every Senator's rights will be protected.

Mr. ALLEN. How does the agreement read, then, after the time for final voting has been reached?

Mr. MANSFIELD. Except a motion to table, it shall be limited to one-half hour, the time to be similarly divided and controlled as described above; and, further, that final disposition shall occur no later than 2 p.m., Wednesday March 1, 1972.

Mr. ALLEN. That leaves out the reference to acting on the committee amendments, then?

Mr. MANSFIELD. That is right.

Mr. ALLEN. Very well.

Mr. MANSFIELD. It leaves it out and waives rule XII.

Mr. ALLEN. I withdraw my objection.

Mr. GRIFFIN. Will the distinguished majority leader reread that portion which relates to time on the amendments?

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the message from the House on S. 659 be brought before the Senate, the committee amendment to the House amendment to S. 659 be open to amendment in two further degrees, and that debate on all amendments be limited to 2 hours——

Mr. GRIFFIN. If the majority leader will yield there, the intent is clear as to what he wants, but since we have had some problems, it could be misunderstood to indicate that debate on all amendments would be limited to 2 hours, period.

What the majority leader is seeking to do is to make it clear that there are 2 hours on each amendment; is that not correct?

Mr. MANSFIELD. Two hours on each amendment. That would include amendments in the second degree.

Mr. GRIFFIN. Right.

Mr. MANSFIELD. That is correct.

The PRESIDING OFFICER (Mr. ROTH). Is there objection to the unanimous-consent request of the Senator from Montana? The Chair hears none, and it is so ordered.

EDUCATION AMENDMENTS OF 1972

Mr. MANSFIELD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 659.

The PRESIDING OFFICER (Mr. ROTH) laid before the Senate the amendment of the House of Representatives to the bill (S. 659) to amend the Higher Education Act of 1965, the Vocational Education Act of 1963, the General Education Provisions Act (creating a National Foundation for Postsecondary Education and a National Institute of Education), the Elementary and Secondary Education Act of 1965, Public Law 874, 81st Congress, and related acts, and for other purposes, which was to strike out all after the enacting clause, and insert:

That this Act may be cited as the "Higher Education Act of 1971".

TITLE I—EXTENSION OF COMMUNITY SERVICE AND CONTINUING EDUCATION PROGRAMS

SEC. 101. Section 101 of the Higher Education Act of 1965 is amended by striking out "and" after "1970," and by inserting after "June 30, 1971" the following: ", and such sums as may be necessary for each succeeding fiscal year ending prior to July 1, 1976".

TITLE II—EXTENSION AND AMENDMENT OF PROGRAMS OF COLLEGE LIBRARY ASSISTANCE AND LIBERTY TRAINING AND RESEARCH

SEC. 201. (a) Section 201 of the Higher Education Act of 1965 is amended by striking out "and" and after "1970," and inserting after "1971," the following: "and such sums as may be necessary for each succeeding fiscal year ending prior to July 1, 1976,".

(b) Section 202 of such Act is amended by inserting before the period at the end of the first sentence ", and other public and private nonprofit library institutions whose primary function is to provide library and information services in institutions of higher education on a formal, cooperative basis".

(c) Section 202(a) of such Act is amended by inserting before "and (2)" the following: "except that under special and unusual circumstances the Commissioner is authorized to waive his requirement,".

(d) Section 202(b) of such Act is amended by inserting immediately preceding the semicolon at the end thereof the following: ", except that under special and unusual circumstances the Commissioner is authorized to waive this requirement".

(e) Section 203(a) of such Act is amended by striking out "$10" and inserting in lieu thereof "$20".

(f) Section 204(a)(2) of such Act is amended by striking out "and" immediately preceding "(C)", and inserting before the period at the end of the first sentence the following: ", and (D) to other public and private nonprofit library institutions which provide library and information services to institutions of higher education on a formal, cooperative basis".

(g) Section 231 of such Act is amended to read as follows:

"APPROPRIATIONS AUTHORIZED

"SEC. 231. Only for the purpose of carrying out training programs under this part, there are authorized to be appropriated such sums as may be necessary for the fiscal year 1972 and each succeeding fiscal year ending prior to July 1, 1976. In addition only for the purpose of carrying out research and demonstration programs under this part, there are authorized to be appropriated $5,000,000 for the fiscal year 1972, $10,000,000 for the fiscal year 1973, $20,000,000 for the fiscal year 1974, $35,000,000 for the fiscal year 1975, and $40,000,000 for the fiscal year 1976."

(h) Subsection (a) of section 223 of such Act is amended by striking out the period at the end of the subsection and inserting: ": *Provided, however*, That in any fiscal year not less than 50 percent of the grants made under this subsection shall be for the purpose of establishing and maintaining fellowships or traineeships under clause (2)."

(i) Subsection (b) of section 223 of such Act is amended by inserting after "institution of higher education" the following: "and other library and educational organizations or agencies".

(j)(1) Section 231 of such Act is amended by striking out "and" after "1969," and inserting before "to enable the Commissioner" the following: "and $9,000,000 for the fiscal year 1972, and each succeeding fiscal year ending prior to July 1, 1976,".

(2) Effective on the date of enactment of this Act, part C of the Higher Education Act of 1965 is further amended by adding at the end thereof the following new section:

"EVALUATION AND REPORT

"SEC. 232. No later than March 31 of each calendar year the Librarian of the Congress shall transmit to the respective committees of the Congress having legislative jurisdiction over this part and to the respective Committees on Appropriations of the Congress a report evaluating the results and effectiveness of acquisition and cataloging work done under this part, based to the maximum extent practicable on objective measurements, including costs, together with recommendations as to proposed legislative action."

TITLE III—EXTENSION OF PROGRAMS TO STRENGTHEN DEVELOPING INSTITUTIONS

SEC. 301. Section 301(b)(1) of the Higher Education Act of 1965 is amended by striking out "and" after "1970," and by inserting after "June 30, 1971," the following: "and the sum of $120,000,000 for the fiscal year 1972 and each succeeding fiscal year ending prior to July 1, 1976,".

AMENDMENT OF PROVISIONS RELATING TO DEVELOPING

SEC. 302. (a) Section 306 of the Higher Education Act of 1965 is amended by striking out "(other than developing institutions)".

(b) Section 304(c) of such Act is amended by adding at the end thereof the following new sentence: "None of the funds appropriated pursuant to section 301(b)(1) shall be used for a school or department of divinity or for any religious worship or sectarian instruction."

TITLE IV—STUDENT ASSISTANCE

PART A—AMENDMENT AND EXTENSION OF EDUCATIONAL OPPORTUNITY GRANT PROGRAM

SEC. 401. So much of part A of title IV of the Higher Education Act of 1965 as precedes section 408 is amended to read as follows:

"PART A—EDUCATIONAL OPPORTUNITY GRANTS

"STATEMENT OF PURPOSE AND APPROPRIATIONS AUTHORIZED

"SEC. 401. (a) It is the purpose of this part to provide, through institutions of higher education, educational opportunity grants to assist in making available the benefits of higher education to qualified high school graduates of exceptional financial need, who for lack of financial means would be unable to obtain such benefits without such aid.

"(b) There are hereby authorized to be appropriated $295,000,000 for the fiscal year 1972 and such sums as may be necessary for each succeeding fiscal year ending prior to July 1, 1976, to enable the Commissioner to make payments to institutions of higher education that have agreements with him entered into under section 407, for use by such institutions for payments to undergraduate students for educational opportunity grants under this part. Sums appropriated pursuant to this subsection for any fiscal year shall be available for payment to institutions until the close of the fiscal year succeeding the fiscal year for which they were appropriated.

"DETERMINATION OF AMOUNT OF EDUCATIONAL OPPORTUNITY GRANTS

"SEC. 402. From the funds received by it for such purpose under this part, an institution which awards an educational opportunity grant to a student for an academic year under this part shall, for such year, pay to that student the amount determined by the institution for such student for that year, which amount shall not exceed the lesser of $1,500 or one-half of the sum of the amount of student financial aid (including assistance under this title) provided such student by such institution and any assistance provided such student under any scholarship program established by a State or a private institution or organization, as determined in accordance with regulations of the Commissioner, except that no student shall be paid during all the academic years he is pursuing his undergraduate course of study at one or more institutions of higher education in excess of $4,000, or $5,000 in the case referred to in the second sentence of section 403. The Commissioner shall, subject to the other limitations in this part, prescribe basic criteria or schedules (or both) for the determination of the amount of educational opportunity grants, taking into account the objective of limiting grant aid under this part to students of exceptional financial need who but for such aid would be unable to obtain the benefits of higher education, but such criteria or schedules shall not disqualify an applicant on account of his earned income if income from other sources in the amount of such earned income would not disqualify him. An individual who has, in years prior to the effective date of the Higher Education Act of 1971, been awarded an educational opportunity grant pursuant to this part shall continue to be eligible to receive a grant in accordance with the requirements of this part as in effect at the time of the initial grant.

"DURATION OF PERIOD OF ELIGIBILITY FOR EDUCATIONAL OPPORTUNITY GRANTS

"SEC. 403. A student eligible therefor may be awarded an educational opportunity grant under this part for each academic year of the period required for completion by the recipient of his undergraduate course of study at the institution of higher education from which he received the educational opportunity grant, except that such period shall not exceed four academic years. The eligibility of a student for an educational opportunity grant may, in accordance with regulations of the Commissioner, be extended for up to an additional academic year where five academic years is the normal period needed to complete the course of study the student in pursuing, or where the student, because of his particular circumstances, is determined by the institution to need an additional year to complete a course of study normally requiring four academic years.

"SELECTION OF RECIPIENTS OF EDUCATIONAL OPPORTUNITY GRANTS

"SEC. 404. (a) An individual shall be eligible for the award of an educational opportunity grant under this part at any institution of higher education which has made an agreement with the Commissioner pursuant to section 407 (which institution is hereinafter in this part referred to as an 'eligible institution'), if the individual makes application at the time and in the manner prescribed by that institution.

"(b) From among those eligible for educational opportunity grants from an institution of higher education for each fiscal year, the institution shall, in accordance with the provisions of its agreement with the Commissioner under section 407 and within the amount allocated to the institution for that purpose for that year under section 406, select individuals who are to be awarded such grants and determine, pursuant to section 402, the amounts to be paid to them. An institution shall not award an educational opportunity grant to an individual unless it determines that—

"(1) he has been accepted for enrollment as a student at such institution on at least a half-time basis or, in the case of a student already attending such institution, is in good standing and in attendance there on at least a half-time basis as an undergraduate student;

"(2) he shows evidence of academic or creative promise and capability of maintaining good standing in his course of study; and

"(3) he is of exceptional financial need and would not, but for an educational opportunity grant, be financially able to pursue a course of study at such institution of higher education. In determining financial need, expected family contributions shall be considered to be the contribution expected in the specific circumstances of the applicant, as determined by the student financial aid officer. Any calculation of the ability of a family to contribute shall include consideration of (A) family assets, (B) value of any social welfare services provided to the family by public or private agencies, (C) number of children in the family, (D) number of children attending institutions of higher education, (E) any catastrophic illnesses in the family, (F) business failures, (G) educational expenses of other dependent children in the family, and (H) other circumstances affecting the student's financial need.

"ALLOTMENT OF EDUCATIONAL OPPORTUNITY GRANT FUNDS AMONG STATES

"SEC. 405. The Commissioner shall allot funds appropriated pursuant to section 401 among the States in accordance with section 465.

"ALLOCATION OF ALLOTTED FUNDS TO INSTITUTIONS

"SEC. 406. (a) The Commissioner shall from time to time set dates by which eligible institutions in any State must file applications for allocation, to such institutions, of educational opportunity grant funds from the allotment to that State (including any reallotment thereto) for any fiscal year in accordance with section 465(a), to be used for the purposes specified in the first sentence of section 401(b). Such allocations shall be made in accordance with criteria which the Commissioner shall establish and which shall be designed to achieve such distribution of such funds among eligible institutions within a State as will most effectively carry out the purposes of this part.

"(b) Payment shall be made from allocations under this section to institutions as needed.

"AGREEMENTS WITH INSTITUTIONS—CONDITIONS

"SEC. 407. An institution of higher education which desires to obtain funds for educational opportunity grants under this part shall enter into an agreement with the Commissioner. Such agreement shall—

"(1) provide that funds received by the institution under this part will be used by it only for the purposes specified in, and in accordance with, the provisions of this part;

"(2) provide that in determining whether an individual meets the requirements of section 404(b)(3) the institution will consider such individual's income, including as a part thereof any expected contribution from parents or others upon whom the student may rely for support, except that there shall be deemed to be no expected contribution from the parents of a veteran (as that term is defined in section 101(2) of title 38, United States Code);

"(3) provide that the institution, in cooperation with other institutions of higher education where appropriate, will make vigorous efforts to identify qualified youths of exceptional financial need and to encourage them to continue their education beyond secondary school through programs and activities such as—

"(A) establishing or strengthening close working relationships with secondary-school principals and guidance and counseling personnel with a view toward motivating students to complete secondary school and pursue post-secondary-school educational opportunities, and

"(B) making, to the extent feasible, conditional commitments for educational opportunity grants to qualified secondary school students, who but for such grants would be unable to obtain the benefits of higher education, with special emphasis on students enrolled in grade 11 or lower grades who show evidence of academic or creative promise;

"(4) provide assurance that the institution will continue to spend in its own scholarship and student-aid program, from sources other than funds received under this

of the estimated cost of establishing and carrying out the work of an institute. The Commissioner shall provide for an equitable distribution of sums appropriated for such grants. Such sums shall remain available until expended. The institute shall assume indirect costs. A minimum of 20 per centum of such grant shall be designated for scholarships, graduate fellowships, and postdoctoral fellowships.

"SEC. 1303. (a) There are authorized to be appropriated to the Commissioner for fiscal year 1972 and for each of the succeeding fiscal years ending prior to July 1, 1976, not to exceed $5,000,000 annually. Such sums shall remain available until expended for grants to institutes designated under this title where there is an application approved under this title to match, on a dollar-for-dollar basis, funds made available to such institutes by State or other non-Federal sources to pay the costs of conducting specific mineral research and demonstration projects of industrywide application relating (1) to the conservation, exploration, extraction, processing, development, or production of mineral resources, including but not limited to, the recycling and reuse of such resources and the products and wastes thereof, and (2) to the protection or enhancement of health and safety of persons employed in the minerals industries and of the environment in connection with mineral operations. The Commissioner shall provide for an equitable distribution of the sums appropriated among institutes for which an application is approved under section 1302 of this title.

"(b) Each application for a grant under this section and section 1304 of this title shall, among other things, state the nature of the project to be undertaken, the period during which it will be pursued, the qualification of the personnel who will direct and conduct it, the estimated cost, the extent of participation by nongovernmental sources in the project, including the identification of the participants, the importance of the project to the Nation, region, or State, and its relation to other known research projects theretofore pursued or being pursued. The Secretary of the Interior shall review each such application and shall make recommendations thereon to the Commissioner within thirty days after receipt of such application concerning the adequacy and merit of the project, the knowledge which it is expected to produce when completed, and such other matters as he deems appropriate. The Commissioner shall not make any grant for a project which the Secretary of the Interior recommends disapproval of, or which, in the judgment of the Commissioner, does not provide an adequate opportunity to train individuals as mineral engineers and scientists consistent with the purpose of this title.

"(c) In making grants under this section, the Commissioner shall prescribe such terms and conditions consistent with the purpose of this title.

"SEC. 1304. There are authorized to be appropriated to the Commissioner $10,000,000 for the fiscal year 1972, and increasing $2,000,000, annually for four years, from which he may, in consultation with the Secretary of the Interior, make grants or contracts with any educational institution to undertake mineral research and demonstration projects consistent with the purposes and applicable provisions of this title.

"SEC. 1305. No research, demonstrations, or experiments shall be carried out under this title by an institute financed by grants under this title, unless all information, uses, products, processes, patents, and other developments resulting therefrom (with such exception or limitation, if any, as the Commissioner may find to be necessary in the public interest) be made available promptly to the general public. Funds appropriated under this title shall be available for printing and publishing the results of activities carried out with the assistance of such funds by institutes and for administrative planning and direction.

"SEC. 1306. To assure that any institute established under this title is adequately equipped to train individuals, the Commissioner may make grants to each institute to pay 50 per centum of the cost of purchasing equipment and supplies. The equipment and supplies so purchased shall be used primarily for the education and training of individuals consistent with the purposes of this title. No portion of any such grant shall be applied to the acquisition by purchase or lease of any land or interests therein or the rental, purchase, construction, preservation, or repair of any building. There are hereby authorized to be appropriated not to exceed $5,000,000 for the fiscal year 1972 and each succeeding fiscal year ending prior to July 1, 1976, to remain available until expended, to carry out the purposes of this section.

"SEC. 1307. (a) The Commissioner shall appoint an advisory committee on mineral research composed of—

"(1) the Director of the National Science Foundation, or his delegate, with his consent;

"(2) the President, National Academy of Sciences or his delegate, with his consent;

"(3) the President, National Academy of Engineering, or his delegate, with his consent;

"(4) the Director, Bureau of Mines, or his delegate, with his consent; and

"(5) such other persons as the Commissioner may appoint who are knowledgeable in the field of mineral research and its impact on health and safety and the quality of the environment.

"(b) The Commissioner shall designate the chairman of the committee. The advisory committee shall consult with, and make recommendations to, the Commissioner and the Secretary of the Interior on matters involving or relating to the purpose of this title. The Commissioner and the Secretary of the Interior shall consult with, and consider recommendations of, such committee in the conduct of mineral research and development and the making of any grant under this title."

TITLE XI—SPECIAL ASSISTANCE FOR THE COLLEGE OF THE VIRGIN ISLANDS AND THE UNIVERSITY OF GUAM

SEC. 1101. In order to enable the Commissioner of Education to make grants to the College of the Virgin Islands and the University of Guam in recognition of the fact that such institutions and the areas they serve do not receive the support afforded land-grant colleges, there is authorized to be appropriated the sum of $3,000,000 for each such institution to be used as an endowment, and the sum of $450,000 for each such institution for the fiscal year 1973, and each succeeding fiscal year, for strengthening higher education, including community service programs, in the areas they serve.

TITLE XII—EVALUATION

SEC. 1201. The Higher Education Act of 1965 is amended by inserting after title XIII the following new title:

TITLE XIV—EVALUATION OF FEDERAL EDUCATION PROGRAMS

"SEC. 1401. (a) The Comptroller General of the United States shall review, audit, and evaluate any Federal education program upon request by a committee of the Congress having jurisdiction of the statute authorizing such program or, to the extent personnel are available, upon request by a member of such committee. Upon such request, he shall (1) conduct studies of statutes and regulations governing such Federal education program; (2) review the policies and practices of Federal agencies administering such program; (3) review the evaluation procedures adopted by such agencies carrying out such program; and (4) evaluate particular projects or programs. The Comptroller General shall compile such data as are necessary to carry out the preceding functions and shall report to the Congress at such times as he deems appropriate his findings with respect to such Federal education program and his recommendations for such modifications in existing laws, regulations, procedures and practices as will in his judgment best serve to carry out effectively and without duplication the policies set forth in education legislation relative to such program.

"(b) In carrying out his responsibilities as provided in subsection (a) of this section, the Comptroller General shall give particular attention to the practice of Federal agencies of contracting with private firms, organizations and individuals for the provision of a wide range of studies and services (such as personnel recruitment and training, program evaluation, and program administration) with respect to Federal education programs, and shall report to the heads of the agencies concerned and to the Congress his findings with respect to the necessity for such contracts and their effectiveness in serving the objective established in education legislation.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 1402. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this title."

TITLE XIII—NATIONAL INSTITUTE OF EDUCATION

SHORT TITLE

SEC. 1301. This title may be cited as the "National Institute of Education Act".

FINDINGS AND DECLARATION OF POLICY

SEC. 1302. (a) (1) The Congress hereby declares it to be the policy of the United States to provide to every person an equal opportunity to receive an education of high quality regardless of his race, color, religion, sex, national origin, or social class. Although the American educational system has pursued this objective, it has not attained it. Inequalities of opportunity to receive high quality education remain pronounced. To achieve quality will require far more dependable knowledge about the processes of learning and education than now exists or can be expected from present research and experimentation in this field. While the direction of the education system remains primarily the responsibility of State and local governments, the Federal Government has a clear responsibility to provide leadership in the conduct and support of scientific inquiry into the educational process.

(2) The Congress further declares it to be the policy of the United States to—

(i) help to solve or to alleviate the problems of, and promote the reform and renewal of American education;

(ii) advance the practice of education, as an art, science, and profession;

(iii) strengthen the scientific and technological foundations of education; and

(iv) build an effective educational research and development system.

(b) The purpose of this title is to establish a National Institute of Education to conduct and support educational research and development and disseminate education research and development findings throughout the Nation.

ESTABLISHMENT OF NATIONAL INSTITUTE OF EDUCATION

SEC. 1303. There is established in the Department of Health, Education, and Welfare a National Institute of Education (hereinafter referred to as the "Institute"). The Institute shall be headed by a Director who shall be appointed by the President with the advice and consent of the Senate. The Director shall perform such duties as are prescribed by the Secretary of Health, Educa-

tion, and Welfare (hereinafter referred to as the "Secretary") and shall be responsible to such Secretary and not to or through any other officer of that Department. The Director shall not delegate any of his functions to any other officer who is not directly responsible to him. The Director shall receive compensation at the rate prescribed for the Commissioner of Education.

FUNCTIONS OF THE INSTITUTE

SEC. 1304. (a) The Director, through the Institute, shall conduct educational research; collect and disseminate the findings of educational research; train individuals in educational research; assist and foster such research, collection, dissemination, or training through grants or technical assistance to, or jointly financed cooperative arrangements with, public or private organizations, institutions, agencies, or individuals; promote the coordination of such research and research support within the Federal Government; and may construct or provide (by grant or otherwise) for such facilities as he determines may be required to accomplish such purposes. As used in this Act the term "educational research" includes but is not limited to research (basic and applied), planning surveys, evaluations, investigations, experiments, developments, and demonstrations.

(b) Not less than 90 per centum of the funds appropriated under section 1308 for a fiscal year shall be expended to carry out this title through grants or contracts with qualified public or private agencies and individuals.

EMPLOYMENT OF PERSONNEL

SEC. 1305. The Secretary may appoint and fix the compensation of such officers and employees as may be necessary to carry out such purposes. Such officers and employees shall be appointed in accordance with chapter 51 of title 5, United States Code.

NATIONAL ADVISORY COUNCIL ON EDUCATIONAL RESEARCH AND DEVELOPMENT

SEC. 1306. (a) The President shall appoint a National Advisory Council on Educational Research and Development which shall—

(1) review and advise the Secretary and the Director on the status of education, educational research and the prospective educational needs of our society;

(2) advise the Secretary and the Director of the Institute on development of programs to be carried out by the Institute and on matters of general policy arising in the administration of this title;

(3) present to the Secretary and the Director such recommendations as it may deem appropriate for the strengthening of educational research, the improvement of methods of collecting and disseminating the findings of educational research and of insuring the implementation of educational renewal and reform based upon the findings of educational research;

(4) conduct such studies as may be necessary to fulfill its functions under this section;

(5) prepare an annual report to the Secretary on the current status and needs of educational research in the United States;

(6) submit an annual report to the President on the activities of the Institute, and on education and educational research in general, (A) which shall include such recommendations and comments as the Council may deem appropriate, and (B) shall be submitted to the Congress not later than March 31 of each year; and

(7) meet at the call of the Chairman, except that it shall meet (A) at least four times during each fiscal year, or (B) whenever one-third of the members request in writing that a meeting be held.

(b) The Council shall be appointed by the President and shall consist of fifteen members appointed for terms of three years; except that (1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessors was appointed shall be appointed for the remainder of such term, and (2) the terms of office of the members first taking office shall begin upon enactment of this title and shall expire as designated at the time of appointment, five at the end of three years, five at the end of two years, and five at the end of the first year. One of such members shall be designated by the President as Chairman. Members of the Council who are not regular full-time employees of the United States shall, while serving on the business of the Council, be entitled to receive compensation at rates to be determined by the Secretary, but not exceeding the per diem equivalent for GS-18 for each day so engaged, including travel time and, while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently. The Director of the Institute and the Commissioner of Education shall serve on the Council ex officio.

(c) The Secretary shall provide to the Council such professional, clerical, and other assistance as may be required to carry out its functions.

(d) The President may also appoint other Federal officials as non-voting ex officio members.

(e) The Council is further authorized to obtain services in accordance with the provisions of section 3109 of title 5, United States Code, and it may enter into contracts for the conduct of studies and other activities necessary to the discharge of its duties.

GENERAL PROVISIONS

SEC. 1307. (a) The Director, in order to carry out the purposes of this title, is authorized—

(1) to make, promulgate, issue, rescind, and amend rules and regulations governing the manner of operation of the Institute;

(2) to accept unconditional gifts or donations of services, money or property, real, personal or mixed, tangible or intangible;

(3) without regard to section 529 of title 31, United States Code, to enter into and perform such contracts, leases, cooperative agreements or other transactions as may be necessary for the conduct of the Institute's work and on such terms as he may deem appropriate with any agency or instrumentality of the United States, or with any State, territory or possession, or with any political subdivision thereof, or with any international organization or agency, or with any firm, association, corporation or educational institution, or with any person, without regard to statutory provisions prohibiting payment of compensation to aliens;

(4) to acquire (by purchase, lease, condemnation or otherwise), construct, improve, repair, operate and maintain laboratories, research and testing facilities, computing devices, communications networks and machinery, and such other real and personal property or interest therein as deemed necessary;

(5) to acquire (by purchase, lease, condemnation or otherwise) and to lease to others or to sell such property in accordance with the provisions of the Federal Property and Administrative Services Act, patents, copyrights, computing programs, theatrical and broadcast performance rights or any form of property whatsoever or any rights thereunder; and

(6) to use the services, computation capacity, communications networks, equipment, personnel, and facilities of Federal and other agencies with their consent, with or without reimbursement. Each department and agency of the Federal Government shall cooperate fully with the Director in making its services, equipment, personnel and facilities available to the Institute.

(b) All laborers and mechanics employed by contractors or subcontractors on all construction projects assisted under this title shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5a). The Secretary of Labor shall have with respect to the labor standards specified in this section the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. 133z-15) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276(c)).

JOINT FUNDING WAIVER AUTHORITY

SEC. 1308. Where funds are advanced for a single project by more than one Federal agency for the purposes of this title, the National Institute of Education may act for all in administering the funds advanced and any such agency may waive any technical grant or contract requirement which is inconsistent with the similar requirements of the National Institute or which the National Institute does not impose.

APPROPRIATIONS AUTHORIZED

SEC. 1309. There are authorized to be appropriated for the fiscal year 1972, and for each fiscal year thereafter, such sums as may be necessary to carry out this title, which shall remain available until expended.

TITLE XIV—OCCUPATIONAL EDUCATION

SEC. 1401. This title may be cited as the "Occupational Education Act of 1971".

FINDINGS AND STATEMENT OF PURPOSES

SEC. 1402. The Congress finds and declares that—

(a) our educational system should be responsible for assuring that every young person leaving secondary school is prepared for and assisted in placement either in productive employment or in further education at the postsecondary level;

(b) the opportunity for postsecondary occupational education in programs which do not directly lead to a baccalaureate or advanced academic degree is severely limited in many parts of the Nation and is everywhere inadequate to meet existing needs, and that this situation adversely affects vital national economic and social goals;

(c) high-quality programs of postsecondary occupational education can be found in a wide variety of institutions, including public and private community and junior colleges, area vocational schools, technical institutes, private proprietary schools, college and university branches, and colleges and universities, and Federal support should encourage the utilization of all such facilities to meet the enormous needs in this field;

(d) the goals and purposes of the Congress in enacting the Vocational Education Act of 1963 and the amendments to that Act of 1968 cannot be realized until there is a widespread understanding of and support for occupational preparation in the general academic community which in turn is reflected in changed attitudes, curriculums, and practices in elementary and secondary schools; and

(e) the foregoing purposes and those of the Vocational Education Act Amendments of 1968 and related Acts cannot be realized without strong leadership and exemplary administration at the Federal level.

AUTHORIZATION OF APPROPRIATIONS

SEC. 1403. For the purpose of carrying out part A of this title, there are hereby authorized to be appropriated $100,000,000 for the fiscal year 1972, $250,000,000 for the fiscal year 1973, $500,000,000 for the fiscal year 1974, and for each fiscal year thereafter such sums as may be necessary to assure that the purposes of this title are realized. From the sums appropriated for the fiscal year 1972, 80 per centum shall be available for the purpose of establishing a plan for administra-

We have a number of studies and have had testimony before several Senate committees to the effect that the minority group child in a school predominantly of his race is deprived, that his education is not comparable to that in many schools in the suburban areas and more advantaged areas.

We have data, which I have inserted in the RECORD this week, which indicates that at one time or another all but six States in our Nation have had discriminatory statutes. In fact a number of States had such statutes within 5, 10, or 20 years of 1954, the year which has arbitrarily become a determining point to distinguish between those States which have had de facto and those which have had de jure segregation.

In view of this, I do not believe that we can deny that the black child in a school which is all black in Boston or Detroit is just as deprived as a black child in an all-black school somewhere in the South. Nor do I believe we can deny that there are more children outside the South than inside who are educationally deprived under this definition. Furthermore, I do not believe that we can deny that the 1954 date which is used to make a distinction is an arbitrary and false one.

Yet, the Senate this week has failed to come to grips with any of these problems. And, it is indeed ironical to hear Members from States outside the South now argue that the Senate should not act on de facto segregation because the Supreme Court has not ruled upon it or that efforts to desegregate must continue in the South but not in the North. But, that is in effect what some Members have argued. In effect they have argued that the South and those few other areas of the country where de jure segregation has been proved—and it is more difficult to prove outside the South although it may be just as prevalent—must bear burdens of inconvenience, of disruption and of cost which other areas with even more racial isolation do not have to bear. Such a situation is patently unfair. But, not only is it unfair, it also erodes public philosophical and financial support for education, support which must exist if we are to retain the more advantaged children in public school systems and if we are to finance public education in the years ahead.

SCHOOLBUSING AND QUALITY EDUCATION

Mr. HUMPHREY. Mr. President, I believe it is profoundly wrong to children and concerned parents across America to twist complex and serious problems of education in our Nation into slogans and emotional appeals offering the deception of simple answers to the difficult question of schoolbusing. The people of America expect their elected leaders and representatives to, in fact, demonstrate the conscience and hard thinking demanded of leadership in addressing these vital issues, rather than pander to public opinion of the moment.

The real concern of our people is that all of our children be guaranteed the opportunity to obtain a quality education. School busing, where properly intended to provide this opportunity to millions of children who have suffered under racial and economic segregation, addresses this concern only in part. For other millions of children, this opportunity has been increasingly threatened by tightening school budgets in countless communities where traditional revenue collection measures have reached the saturation point in the face of rising public service costs.

The provision of the best possible education for all our children constitutes an absolutely essential national resource. It is for the protection and strengthening of this national resource that the people of America are now calling the President and Congress to account.

I wish to undertake this accounting now; first, by clarifying the problem of schoolbusing to identify the real issues at stake in the Federal Government's response; and second, by proposing a legislative program of action by this Congress to provide critical Federal financial relief and incentives to our States and communities endeavoring to define and establish equal opportunity to a quality education for all our children.

THE PURPOSE OF SCHOOLBUSING

The goal of assuring for all of our children equal access to a quality education is not advanced by moving children from better schools to poorer ones. Nor is it advanced, as the Supreme Court has recently held, when travel to school risks the health of children or adversely affects or infringes upon their education. No child, black or white, should be set adrift in an unstable school situation. No parent, no educator, no responsible government official sees any merit to so-called massive busing to achieve an arbitrary racial balance based on a mathematical formula. It does not help the child. It cannot bring about quality education. It has been divisive, compounding rather than helping to solve our racial problems.

The issue of schoolbusing is currently focused on the widely publicized lower court decision affecting the organization of the school districts of Richmond, Va., and neighboring Henrico and Chesterfield Counties. The decision having been appealed, any comment by a governmental representative or official would be premature. But this case does point to one basic need, that school systems throughout the land must develop viable programs that will enable the children of the inner cities to share in the educational and cultural life which should be open to all Americans. The schoolbusing issue must cease to be the symbol of a Nation's failure to provide quality education for all its children.

It is wrong to foster public confusion by equating the critical need for better schools for all our children with a demand for a fixed or arbitrary racial balance in our schools, which is a totally incorrect interpretation of Federal statutes protecting our civil rights. The Civil Rights Act of 1964, to correct a pervasive violation of the 14th amendment to the Constitution guaranteeing the equal protection of the laws, called for an end to State action enforcing the segregation of children in separate schools on the basis of their race—a segregation, let it be clearly noted, that itself had required extensive school busing. This governmentally dictated isolation of hundreds of thousands of children was found to violate their most basic right of equal opportunity, denying their common human dignity, and crippling their educational and emotional development.

Despite dramatic accomplishments in the subsequent desegregation of our schools, over half of our black children, comprising 15 percent of public school enrollment, are in schools with a minority group concentration from 80 percent to 100 percent of total enrollment. Of the 2 million Spanish surnamed pupils in the public schools of the United States, about 70 percent attend schools in a five-State southwest region, with the majority of these students being Mexican-American. About 30 percent of these children are concentrated or isolated in schools in predominantly Mexican-American districts in this region.

What is demanded today at the national level is an honest policy on school desegregation that moves forthrightly against any attempt at official discrimination. It is this government denial of the equal protection of the laws, whether sanctioned or intended, that is prohibited by Federal law. And it is the enforcement of the specific prohibitions of this law that should be neither avoided nor exceeded by the executive branch of the Federal Government.

But what is also required of the present administration now is the clear recognition that the central issue is not busing. The issue before the American people is the need of all children to have an equal chance to get the best possible education. No parent, white or black, wants his or her child to attend a school with inferior educational standards. What the children of the urban ghetto and the poverty-stricken rural county require, if they are to have an equal opportunity to obtain the best education available, is a major investment by America to redress the serious imbalance in educational resources with which they have been too long confronted.

No child should be condemned to an inferior education by the circumstance of residence, family income level, or race. No child's learning and emotional development should be stunted by a pervasive and constant experience of poor school facilities, obsolete textbooks, sharply limited learning opportunities, or of hunger and malnutrition, and an unsafe and deteriorating neighborhood where he knows only fear, hostility, racial bitterness, and deprivation.

Honesty demands our recognition that such conditions can permanently cripple a child, can effectively deny him the opportunity in later life to obtain a good job, and can mean that a potential productive member of American society becomes, instead, a burden upon society.

Every child should have the right to a stable local school situation where the learning process is stimulating, comprehensive, guided by the most up-to-date knowledge and education psychology, and assures that his or her specific interests, abilities, and needs receive careful and continuing attention.

It is this right to equal participation

in educational excellence that should be enshrined as a constitutional law of the land, for it is a prime foundation for establishing the equal opportunity of every American to make the most of his life and to contribute his skills and abilities to make a better society for all. And it should be a permanent right that simultaneously advances our Nation toward the full realization of the ideals under which the United States of America was originally constituted.

No propored constitutional amendment that deals with anything less than this fundamental issue, or that is any less permanent in its application, can be acceptable to the American people. And it should be clearly recognized that any proposed constitutional amendment that speaks of "freedom of choice," or that inveighs against required attendance at a school on the basis of race, is divorced from the reality of existing Federal law specifically prohibiting enforced school segregation, and employs language repeatedly proposed over recent years precisely to maintain this segregation.

Nor ought any statute be enacted by Congress that retreats from the proposition that all men are created equal and should have the fullest opportunity to enjoy a meaningful life in freedom, or that undermines our commitment to a united nation where justice is established and the general welfare promoted.

What we must establish now is a firm Federal policy of full support for State and local efforts to provide a quality education for all children. Local authorities have the firsthand knowledge and responsibility to take the initiative to achieve this goal. But they have a special capability and duty to launch innovative and comprehensive measures to assist children attending schools in areas of economic and social deprivation. This can and should include the busing of children from a deprived area into a better learning environment—not the so-called massive busing which defeats the very purpose, but a carefully implemented plan that assures that all children affected will enjoy constructive educational benefits, including that vital sense of continuing involvement in the total life of the school they are attending.

The question of school transportation should be decided at the local level. And this decision can only be justified where it will advance the quality of education and the equality of educational opportunity for those children bused. But busing should be viewed as only one method by which children can be released from the isolation of racial segregation and poverty to share in the educational opportunities that are essential for them to realize their true potential.

Busing provides only a temporary and partial answer to this critical need. Wherever possible, we should make full use of other methods to overcome the educational disabilities borne by children isolated in the urban and rural ghettos of poverty in America. These can include carefully planned school district rezoning and new school construction to benefit all children in the local area, as well as the selective assignment of children from poor schools to respective classes in surrounding schools offering a better learning environment.

But the central emphasis must be placed on ending the disparities that deny hundreds of thousands of schoolchildren an equal chance to obtain the best possible education. To compensate for generations of neglect, we must provide these children with the best schools and teachers, with extensive remedial services to upgrade basic learning skills, and with new curricula and instructional methods focused on the values and strengths of the unity that must continue to be forged out of our distinctive, multiple cultural and ethnic backgrounds. We must initiate extensive guidance and counseling services, innovative applications of communications media and audiovisual resources, and bilingual-bicultural programs. And we must make unremitting efforts to assure effective community participation in the programs of these schools.

Such extensive new directions cannot in themselves overcome the problems of neighborhood decay, social deterioration, and the constant anxiety and despair of critical economic need that also constitute the total learning experience of a child in an atmosphere of racial and economic discrimination. The difficult and sustained task of constructively redressing these grievances remains before American society. But we know that in the education of children we have a preeminent tool with which to work at this task, and it must not be set aside. Children who confront the reality of a dual school system of segregated and inferior education in slum schools and slum neighborhoods must have the right to the promise of an integrated educational system with modern facilities and well-trained, competent teachers. We need a massive and immediate national effort—a Marshall plan for our cities—to improve and rebuild our neighborhoods and aid all of our school districts.

A PROGRAM TO ESTABLISH FULL EDUCATIONAL OPPORTUNITY

Let history record that precisely out of the current emotion and confusion surrounding the single issue of school busing, there arose a positive demand by the people of America that our Government exercise leadership in presenting a forward-moving and comprehensive program for the extensive improvement of the educational resources of America on behalf of present and fuutre generations of children.

The essential task before the administration and Congress is to forge this new public consensus through developing a constructive legislative program to substantially expand the Federal investment in the education of all of America's children and youth. This program has been launched in the vital legislation presently before the Senate.

FEDERAL ROLE: ONE-THIRD OF TOTAL PUBLIC INVESTMENT IN EDUCATION

But we must do much more in fulfilling our responsibilities as representatives of the people. We must achieve a Federal investment in the education of their children that amounts to at least one-third of all public resources devoted to this task. This investment must have a two-pronged purpose. First, through a system of basic grants tied directly to the number of schoolchildren, it must provide essential relief to local communities bearing a heavy cost burden for their education, and it must lead to an overall balancing of public support among school districts to firmly establish the equal opportunity for all children to obtain a quality education.

Second, through the provision of additional compensatory aid grants, this Federal investment must provide for extensive special educational services targetted at helping children overcome the serious educational and cultural handicaps with which they are afflicted as a result of being brought up in a segregated and deprived school atmosphere.

This can and should include a program of Federal support for contiguous or adjacent local school jurisdictions to develop joint programs where transportation can improve the quality of a child's education, and where expanded and improved school facilities can enable the effective exercise of this important option in overcoming the deprivation behind barriers of segregation.

NATIONAL EDUCATIONAL TRUST FUND

To enable local school boards to carefully plan and carry through the complex and sustained effort that will be required to end disparities in educational opportunity, the level of this Federal investment must be guaranteed. That is why I have proposed the establishment of a National Educational Trust Fund, with financing based in part on a predetermined allocation of Federal Revenues. The employment of a trust fund will enable Congress to carry through its commitment to State and local responsibility for the education of our children and youth. It can fulfill a national responsibility to support this task, in recognition of the impact of increasing population mobility that can progressively limit the effectiveness of local revenue support measures for education. And it justified by the high national priority that now must be given to policies and programs to assure the protection and development of America's human resources through education.

A major program of Federal assistance must be carefully designed to preserve and strengthen State and local decisionmaking authority and freedom in the area of elementary and secondary education. We must do more than simply affirm support for local control of our schools, which still leaves our communities with the critical problem of rising school costs and inadequate facilities and services—a problem which State and local officials are frank to admit is already on the verge of being out of control. We must provide effective relief from the burden of these costs and assure that Federal assistance is rapidly channeled to meet critical local educational needs. There should be additional Federal incentives for the achievement of these goals, including the promotion of State and local fiscal support reforms and of programs of assessment and accountability on the utilization of educational resources.

SCHOOL CONSTRUCTION AND MODERNIZATION ASSISTANCE

Any program to further the equalization of local fiscal support for education must mean more than meeting instructional or operating costs. Over the past decade there has been a sharp rise in the index of school construction costs. There has been a steady decline in voter approval of school bond referendums, with less than one-half the par value of issues being approved in fiscal 1970. And interest costs for public elementary and secondary school bonds in that fiscal year continued a rising trend to a record high. The result has been curtailments in critically needed school construction, as well as crowded classroom conditions, a wider use of short or double sessions, and the continued use of outmoded and unsafe facilities.

It is in light of these disturbing trends that I have proposed a program of Federal grants and loan guarantees to provide local education agencies with essential relief from the increasing burden of capital outlay and debt servicing costs. The equalization of disparities in this category of school costs, particularly on behalf of deprived urban and rural areas, demands effective Federal support.

NEW DIRECTIONS TOWARD A COMPREHENSIVE EDUCATION PROGRAM

I have been talking about the education of some 46.2 million children and youth in America this year at a total public cost of $46.8 billion. But we should also be looking to a recomputation of these figures that enables effective assistance for additional vital areas of education. By this I mean to include the 6.5 million preschool children who have a serious need for comprehensive early childhood development programs, and several million handicapped children who have the right to special educational services. I am talking about 6.2 million children for whom compensatory and remedial skills programs are critical to their future ability to cope with the demands and challenges of adulthood, and 2.2 million youth who want and deserve the opportunity to pursue vocational and career education. And it is time to give full effect to recently enacted Federal programs, to provide extensive adult education opportunities to some 15 million Americans.

A new education policy must also address the total social and learning environment of the child and young person—his health, his neighborhood, his need for careful development and guidance. It is for this reason, for example, that I intend to press for favorable action on the Universal Child Nutrition and Nutrition Education Act, which I introduced to address the pervasive evidence of inadequate nutrition among children of all income levels across America, and to end the confusing patchwork of Federal regulations that can work to deny a daily nutritious meal to hundreds of thousands of schoolchildren.

DEPARTMENT OF EDUCATION

These examples emphasize the tremendous importance of education in our Nation today. The high national priority which must therefore be given to education demands the establishment of a Cabinet-level Department of Education. The legislation presently before the Senate moves in this direction. But I believe we must accelerate this governmental reorganization to consolidate Federal programs to effectively meet a critical national need. We must have a spokesman for education at the highest level of Government—a department that can launch a concentrated Federal effort to maintain and improve our vital educational resources, and effectively support the ongoing knowledge explosion and rapid and extensive developments in the broad field of learning processes and opportunities.

In the near future, I will be introducing further legislation to enable the achievement of the goals I have outlined for a comprehensive program of action by Congress to promote the equal opportunity for a quality education for all of America's children and youth. I urge the Senate to launch this effort through taking favorable action on the pending legislation, the Education Amendments of 1972. It is now essential that Congress fulfill the responsibilities of conscience and leadership in ending the disparities and deprivations that deny millions of children and youth an equal chance to obtain the best possible education.

The PRESIDING OFFICER. The question now is on concurring in the House amendment with an amendment in the nature of a substitute, as amended.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. HARTKE), the Senator from Washington (Mr. JACKSON), and the Senator from Wyoming (Mr. McGEE) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON), would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Vermont (Mr. STAFFORD) is necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from New Hampshire (Mr. COTTON) is detained on official business.

The result was announced—yeas 88, nays 6, as follows:

[No. 80 Leg.]

YEAS—88

Aiken	Cook	Hughes
Allen	Cooper	Humphrey
Allott	Cranston	Inouye
Anderson	Curtis	Javits
Baker	Dole	Jordan, N.C.
Bayh	Dominick	Jordan, Idaho
Beall	Eagleton	Kennedy
Bellmon	Eastland	Long
Bennett	Ellender	Magnuson
Bentsen	Ervin	Mansfield
Bible	Fong	Mathias
Boggs	Fulbright	McClellan
Brooke	Gravel	McGovern
Buckley	Griffin	McIntyre
Burdick	Gurney	Metcalf
Byrd, Va.	Hansen	Miller
Byrd, W. Va.	Harris	Mondale
Carnon	Hart	Montoya
Case	Hatfield	Moss
Chiles	Hollings	Muskie
Church	Hruska	Nelson
Packwood	Schweiker	Talmadge
Pastore	Scott	Thurmond
Pearson	Smith	Tower
Pell	Spong	Tunney
Percy	Stennis	Weicker
Proxmire	Stevens	Williams
Randolph	Stevenson	Young
Roth	Symington	
Sarbe	Taft	

NAYS—6

Brock	Gambrell	Ribicoff
Fannin	Goldwater	Sparkman

NOT VOTING—6

Cotton	Jackson	Mundt
Hartke	McGee	Stafford

So the House amendment with an amendment in the nature of a substitute, as amended, was concurred in.

Mr. JAVITS. Mr. President, I move to reconsider the vote.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PELL. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and conforming corrections in the engrossment of the Senate amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, the final adoption of the committee substitute resulting in the disposition of the package of education proposals makes an outstanding achievement. To be singled out for special praise for this triumph is the distinguished Senator from Rhode Island, the able chairman of the Education Subcommittee. As the floor manager of this most important proposal, his contributions were invaluable, his outstanding legislative skill indispensable and his strong and able advocacy most necessary to this success. I must say it was only in keeping with the fine record Senator PELL has already established. His many achievements as a public servant stand as an indelible mark. Once again he has won the deep gratitude of the entire Senate.

Joining Senator PELL and sharing the most important task of managing this bill was the distinguished Senator from New York (Mr. JAVITS). It should be said that Senator JAVITS has held the burden on the minority side of legislation ever since the Congress returned for this session. With the equal employment opportunities measure approved followed by the adoption of the education package just now, Senator JAVITS has exhibited once again his enormous talent and outstanding capacity. Senator JAVITS deserves the Senate's highest commendation. The same may be said for the efforts of the distinguished Senator from Colorado (Mr. DOMINICK).

Also deserving praise is the distinguished Senator from Minnesota (Mr. MONDALE). Senator MONDALE has worked tirelessly on the very critical problem of school desegregation. His fine expertise while this issue was before the Senate was invaluable to every Member and we are grateful. We are grateful as well for the efforts of the distinguished Senator from North Carolina (Mr. ERVIN) and the distinguished Senator from Alabama (Mr. ALLEN). Both offered their own strong and sincere views. Both joined in cooperating to assure final disposition.

s great work in this field. I appreciate his associating himself with these remarks, and I am honored.

EDUCATION AMENDMENTS OF 1972—CONFERENCE REPORT

The Senate continued with the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the amendment of the House to the text of the bill (S. 659) to amend the Higher Education Act of 1965, the Vocational Education Act of 1963, the General Education Provisions Act—creating a National Foundation for Postsecondary Education and a National Institute of Education—the Elementary and Secondary Education Act of 1965, Public Law 874, 81st Congress, and related acts, and for other purposes.

The PRESIDING OFFICER (Mr. GRAVEL). Who yields time?

Mr. PELL. Mr. President, I suggest the absence of a quorum, and ask unanimous consent that the time be charged equally against both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Mr. President, I ask unanimous consent to have printed in the RECORD various communications concerning S. 659.

There being no objection, the communications were ordered to be printed in the RECORD, as follows:

NEW HAVEN, CONN.,
May 22, 1972.

Senator CLAIBORNE PELL,
Washington, D.C.:

I am very enthusiastic about the higher education provision reported out by the conference on S. 659. While the busing rider bothers me, I am not qualified to judge how it looks in the light of alternatives. However, I did want you to know, that these provisions relating to students and institutional support would go a long way to help all universities without imposing a heavy hand of uniformity on higher education. Best of all, it would help the students who need it most and still allow them to choose the institutions they most want to go to.

KINGMAN BREWSTER, JR.,
Yale University.

Re higher education bill.

To: Presidents of state colleges and universities and associate members of the AASCU.

From: President Robert R. Martin, AASCU.

Date: May 16, 1972.

Conferees on higher education omnibus bill are reported close to agreement. We anticipate that Conference Report S. 659 will shortly reach the floors of the House and Senate for action. Key supporters of bill are certain that a major push from constituents on all House and Senate Members will be imperative to enact this legislation. S. 659 contains major new thrusts in institutional aid, student aid, and program support needed by AASCU members. It is urgent that not only AASCU presidents, but members of their boards of trustees and other local leadership wire and call their Senators and Representatives urging early adoption of the conference report.

Re higher education bill.

To: AASCU presidents, AASCU non-member presidents, AASCU associate members.

From: President Robert R. Martin, AASCU.

Date: May 19, 1972.

Attached is an informal and unofficial summary of the higher education bill that came out of the conference Wednesday, May 17, 1972. This summary deals only with selected highlights of the complex bill. We hope to have a copy of the actual bill (still being written) and the conference report early next week and we will send you evaluations of the implications for AASCU institutions in the various provision of the bill.

We have met in the past two days with the Members of the Senate and House who steered the bill through the conference and through the many necessary and inevitable compromises. They all have emphasized that they will have to "run scared"; vigorous grass roots support in the form of phone calls from and even personal meetings with officials of institutions of higher education, their trustees, faculty members, students, and interested persons outside of the college community, will be needed to gain the necessary votes to pass this legislation.

Mr. PELL. Mr. President, we are now leaving H-hour on D-day, the moment of decision as to whether this omnibus education bill, with its very new, broad, innovative higher education provisions will become law.

I would call to the attention of the Senate two new concepts in the higher education provisions which are emplanted in the legislation. The first is that education beyond high school should be a matter of right, a matter of entitlement to our Nation's youngsters without restriction due to the economic situation of the family. The other innovative concept is that there should be direct assistance to institutions of postsecondary education. This assistance is based in part on the number of students receiving the basic grant I spoke of earlier, the amount of Federal student assistance at each school and graduate education. By this approach we hope that we have avoided some of the constitutional problems that might have arisen if institution aid had been on a straight capitation basis.

Together with this, we have created a new Division of Education within HEW, somewhat overhauled the Office of Education, and established an Institute of Education, seeking to make easier, the implementation of the bill of the Senator from Connecticut (Mr. RIBICOFF), to establish a Department of Education and Culture. By overhauling the basic law, we have made the spinoff of the division easier to accomplish.

In addition, we sought to accomplish some consolidation and attempted to make a very complicated set of code books on the Higher Education Act more simple and easier to read.

In addition to that, this bill has had added to it the President's emergency school aid program, which was designed to bring additional money to those areas of our Nation, particularly the ghetto areas, where our Nation's disadvantaged children are concentrated.

The amount of money was increased over the President's request from $1.5 billion—actually from $1.350 billion, because $150 million was already appropriated—to $2 billion.

Also, passage of this portion of the bill would achieve many of the objectives in the President's proposal for the equal educational opportunity that the Senate is now considering.

In addition to that, the bill carries on its back the various antibusing provisions. These antibusing provisons, like the tip of an iceberg, are all the Nation sees. Just as one cannot see the bulk of an iceberg, which is underwater, the broad, new educational approaches in this bill, have been submerged beneath the surface. But this tip, which is very obvious, causes the problem which makes its passage difficult. It is this tip that has caused the unholy alliance of the left and right in opposition to the bill. If this polarization of the forces from the left and the right come together and move toward the center, we will soon find the middle ground diminished and the supporters of the bill will be overwhelmed. That would be a very sad day indeed for the Senate, the Congress, and our Nation.

For those reasons, I would hope that those in opposition would not succeed in their intention and efforts to torpedo the bill. I would hope that those groups fail in this body and also in the other body. I would hope that when the bill is finally passed, as I trust it will, that the President will sign it. I would hope that he would not exacerbate the national concern with busing. That when he looks at the tip of the iceberg, the President does not lose sight of the far more basic educational philosophy in the bill, and that he will act the role of a mature leader and concentrate on the really important issues educational concerned. He should also recognize that this bill is truly a great credit to the administration, who contributed much of the thinking and much of the work that went into the bill.

I would hope that the bill could become law. If it did become law, and if appropriations followed quickly with administration support, we would find the effects of this bill playing a role in the education plans of our Nation's youngsters and their parents in the coming fall.

For all these reasons, I would hope that this bill would survive. I would also submit that, if it passes, those on the right and those on the left, who oppose it for reasons that they consider important—local reasons and ideological reasons—will in the end be very, very glad indeed that this bill has passed.

I yield the floor.

Mr. JAVITS. Mr. President, I yield myself 5 minutes.

Everything that the Senator from Rhode Island (Mr. PELL) has said is true. It is a matter of deep regret to me, and I think it should be to the country, that this bill has been used as a vehicle to perpetuate injustice—that that is the straw that breaks the camel's back.

Mr. President, I say everything the Senator from Rhode Island has said is true on the substance. I do not agree with him about "the right and the left." It is very easy to toss that one in the air and say, "Well, some people want an ab-

solute bar on busing. Some people want lots of busing. We are in the middle." I do not think that is true at all. I do not think those of us on my side of the issue wants lots of busing. We showed that in the Senate when we worked out a very honorable and very pragmatic set of criteria which would determine the future of the busing issue, which should have satisfied everybody—the city dweller's concern about having a child bused inordinate periods of time, the concern of all parents about the fact that children could not learn if the busing were too intrusive in their lives as well as the suburban dweller's concern about the impact on the suburban school of outside children being transported to that school.

We have protected them all and thus limited court-ordered busing. We refused to inhibit busing within these limts of the reassignment of students to different schools, because we felt there had to be desegregation of our schools.

The idea that such desegregation has been completed is an illusion. Some has taken place. Much has not, both in the North and in the South. And I emphasize that.

Finally, Mr. President, and very importantly, we are trying to deal with a heritage of injustice. Let us remember that in the very same room of the old Supreme Court Chamber in the Capitol in which we came to the conclusion of this tremendous conference in terms of time and complexity, the case of Plessy against Ferguson was considered more than 75 years ago, which perpetuated into our law as late as the latter part of the 19th century——

Mr. PELL. Mr. President, will the Senator yield for a question?

Mr. JAVITS. Surely.

Mr. PELL. The Senator from New York has been here twice as long as I have. Does he recall a conference which was long as this one or as arduous as this one, or one which went as late into the morning hours in, incidentally, the old Supreme Court chamber to which the Senator referred?

Mr. JAVITS. I can confirm that. I am not sure history would not show that there were conferences that lasted even longer or that were tougher, but this ranks with the best of them, I can assure the Senator.

Again, I repeat, because it is from a friend to a friend, my feeling of satisfaction of how well the Senator from Rhode Island carried it off.

To resume, the Plessy against Ferguson doctrine was that of "separate but equal"—that is, that facilities, including schools, could be separate for blacks and whites provided they were equal—an anathema to our Constitution, an anathema to the dignity of the black man, an anathema to justice—finally reversed by the same Supreme Court in 1954 in Brown against Board of Education, 58 years later. Now some 18 years after that we are still struggling with the concept.

So, Mr. President, while thoroughly embracing all of the magnificent educational achievements of the bill, one still has to decide whether he can swallow the fact that this outstandingly fine education bill should be used as the carrier for a confirmation of injustice. I do not consider that a doctrine of the left or the right. I consider it the path of honorable legislating, to have faith in the legislative process to produce a result without being a carrier for major injustice.

Mr. President, I am not unmindful of the fact that there are black groups that themselves adopt a parochial and racist attitude with respect to desegregation of the schools and busing. People in my position have learned, through the years, that you cannot expect thanks or appreciation when you make very hard and difficult decisions of this nature. But I am deeply convinced that the future of our Nation is very heavily tied up with some restoration of real equality between that 11 percent of our population which is black and the 89 percent which is white, and that so much of the difficulty which is being suffered today is due to the heritage of injustice and the result of deprivation practiced over so many years. When the issue is as deep and as moral as that, I do not consider it an issue of the left or the right.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. JAVITS. I yield myself 5 additional minutes.

One could say this is a decision, Mr. President, which is deep in the right, because it is grounded so heavily in the interpretation of the Constitution, not only by the Supreme Court but by us, because of the whole series of legislation since 1954 seeking to assure equality of education, which we ourselves have enacted. This is a deep question of conscience for each individual, Mr. President, and each individual must decide for himself where the preponderant benefit to the country lies. I have made my decision; others have made theirs. I respect every decision, including that of the distinguished manager of the conference report, the Senator from Rhode Island (Mr. PELL) for himself, but I cannot accept any categorization of this decision as being a decision of the right or of the left.

I remember, Mr. President, from my own career in the House of Representatives, an extremely concerned Member of Congress from downstate Illinois who voted in what one could consider a most liberal way upon a constitutional issue. He said to the House at the time that it deeply grieved him; he felt it was the most painful thing he had ever done to vote as he did. The measure involved a question of the paying of a bill by the Federal Government which the courts had found should be paid, and he was deeply opposed to paying it, but he voted to pay it nonetheless because he felt that the Constitution prevailed over every other consideration of ideology.

So I would say that the decision is a decision above ideology, above left or right. It is a decision as to the degree of importance which one is to give to a profound constitutional question like the question of the desegregation of schools.

Mr. President, I hope very much that every benefit which will flow from this measure as it develops into law one way or another—as I have no doubt it will—will show its great value to our people. But I cannot equate this value, which I am convinced inheres in the educational aspects of the bill, with the crushing load of injustice which we continue to ask minorities to bear in this country. Nor, Mr. President, at a time when they feel the tide is flowing against them, would I fail to lend my voice and such influence as I have to their cause, because it is not a friendless cause; on the contrary, it is a typically, traditionally, and deeply American cause.

Mr. President, I express the hope that our problems will be dispelled, the problems both of those who vote for and those who vote against, by the action of the courts—indeed the statement of managers of the conference invites that, and quite justly, with relation to the so-called Broomfield amendment—and that the courts, profiting from our discussion and debate and the considerations which went into our debate here, will either find the provision constitutional, as I believe they properly can and should, or, at the worst, will find that it does not deal with public school desegregation because of the language of the measure itself, which inhibits for the 19-month automatic stay both transfers and transportation to achieve a balance, as the bill states, in race, sex, and other considerations, including socioeconomic status. I hope the courts will be persuaded by their own decision that this inhibition does not extend to court ordered desegregation based upon violations of constitutional rights in segregating children in school, that the courts cannot be deprived of the authority to redress that kind of damage which is done to the individual if he is denied his rights under the Constitution of the United States, and that our power does not extend to depriving them of the jurisdiction to redress the deprivation of a constitutional right.

If we cannot deprive them of the jurisdiction to deal with that constitutional right itself, we cannot deprive them of the incident, to wit, the immediate implementation of an order redressing a violation of that right.

Mr. President, the Supreme Court could settle both these questions very quickly, and I have no doubt that should this measure become law the Supreme Court will be faced with those questions very quickly. I hope the Court will give them the highest priority, so that the issues may be settled; and if they should, as I hope they will, find the law unconstitutional and vague, then, Mr. President, the country can truly find relief and enjoy the benefits of the magnificent structure in respect of education which is being established by this bill.

Mr. President, I close my part of this debate as follows:

This is truly a historic piece of legislaton for what it does for the higher education. Yet I am constrained to oppose the conference report, because it is also a historic piece of legislation for what it does against the interests of the children of minorities, and against the Constitution of the United States. Notwithstanding all of the meritorious provi-

sions, all of this which means so much to education in our Nation, to our students and our schools, I have not signed the conference report, though I am the ranking Republican member of this committee, and played a tremendous part, in terms of time and effort, from the very moment the bill first came before us in committee.

But all of this is outweighed by one provision which, in my judgment, is a clear and unconstitutional repudiation of the principles regarding equality of the races in terms of equality of opportunity. This provision, as Tennessee Ernie Ford used to put it, is the clod in the buttermilk. Because of it the contents of the entire churn, the fruit of so much toil, is ruined.

Once again, higher education is made the secondary issue in a higher education bill. Once again, a complex and fine bill becomes like an inverted pyramid resting on its point—the civil rights issue. Once again the Congress is rent with a debate between morality and pragmatism.

It is, therefore, with regret that I feel I must vote to reject the conference report on this bill.

The PRESIDING OFFICER. Who yields time?

Mr. JAVITS. Mr. President, I now suggest the absence of a quorum, and ask unanimous consent that the time for the quorum call may be charged equally to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Mr. President, I yield to the Senator from Florida such time as he requires.

Mr. CHILES. I thank the Senator from Rhode Island. I should like to ask him several questions.

In the debate on the original bill, Senator TALMADGE'S amendment in section 804 was as follows:

> A parent or guardian of a child, or parents or guardians of children similarly situated, transported to a public school in accordance with a court order, may seek to re-open or intervene in the further implementation of such court order, currently in effect, if the time or distance of travel is so great as to risk the health of the student. Such re-opening or intervention will also lie if the effect of such a court order is alleged to impinge on the quality of his or her educational processes. Further, such parent or guardian shall have the right to re-open or to intervene as a class in respect of such a busing plan on behalf of such student and all other students similarly affected thereby.

I interpret the original Talmadge amendment, as adopted by the Senate, to mean that an existing and final school busing order can be reopened either because the time or distance of travel risks the child's health or because the effect of the court-ordered busing significantly impinges on the child's educational processes. Is this the Senator's understanding of the original language?

Mr. PELL. In response to the Senator, I have reviewed the RECORD of March 1, and I agree that the RECORD indicates that that was the intention of the original Talmadge amendment.

Mr. CHILES. As I read the explanation of the conference report by the conferees, it was their intention to retain the substances of the original Talmadge amendment in section 804 of the conference report. Am I accurately reflecting the intention of the conferees in this regard?

Mr. PELL. This particular section was discussed three times. There were a number of questions about the technical meaning of the language. The language which was adopted by the conference was, in my opinion, designed to carry out the original intent of the Talmadge amendment. I can assure the Senator that at no time during the course of the conference was there any stated intention to change the intent of the Talmadge amendment.

Mr. CHILES. I thank the Senator from Rhode Island.

Mr. PELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CHILES). Without objection, it is so ordered.

Mr. PELL. Mr. President, I yield to the Senator from Virginia such time as he requires.

Mr. HARRY F. BYRD, JR. I thank the distinguished Senator from Rhode Island.

Mr. President, the conference report on higher education is a very important piece of legislation. There are many facets to it. On the whole, I approve of the measure in regard to higher education. Since I have been in the Senate, I have favored Federal support for higher education.

I approve of many parts of this bill. I am not in agreement with some aspects. The conference report contains 228 pages.

One of the sections that concerns me a great deal is that which pertains to the busing of schoolchildren for the purpose of creating an artificial racial balance in the public schools.

This report was only available at 10:30 yesterday morning. It is somewhat difficult to digest and understand all of its ramifications. I understand that the conferees spent some 6 to 8 weeks in working out the conference report. It is rather difficult to comprehend all of it in the short period which has been available prior to the time the Senate will be called upon to cast its vote.

But if I correctly understand the provisions, the conference report, insofar as it deals with the question of the compulsory busing of students to achieve a racial balance, is much stronger in condemnation of and in attempting to prevent compulsory busing than was the original Senate action.

As to whether it goes as far as the House of Representatives went in its legislation, I am not completely clear in my mind on that point.

With regard to the compulsory busing of schoolchildren to achieve racial balance, I would prefer—and so voted yesterday—to send the legislation back to conference so as to strengthen its antibusing provisions.

Yesterday, the Senate debated that question and it concluded otherwise. So, those of us in the Senate today must determine whether to vote to reject the conference report entirely or to support it.

The report, as I read it, makes clear that Congress does not sanction, does not favor, does not advocate, and does not approve of the compulsory busing of children to achieve racial balance in the schools. That section does not go as far as I would like for it to go. But it goes further than the Senate has been willing to go in the past. I think that is a good sign.

Why did it come about?

Well, the House of Representatives, being closer to the people than the Senate, perhaps, helped to prevail upon the Senate conferees in that regard.

But more than that, I think the elections held in recent weeks have had an effect; and if they have not had an effect, they certainly should have.

When one sees the results of elections in Florida, Maryland, and Michigan, it seems inescapable to me that those elections suggest the overwhelming majority of the American people are strongly opposed to what is being forced upon them by the Department of Health, Education, and Welfare and by the Federal courts in regard to the busing of their children.

I feel that Congress should take a strong and firm stand—a clear-cut stand—in all-out opposition to compulsory busing. Congress is unwilling to do that. But the conference report does take more steps forward than have ever been taken in the past. It is stronger than the Senate has ever been willing to go in the past.

If the House should send to the Senate stronger legislation than this, I shall vote for it. If it were possible for amendments to be presented to the Senate making the antibusing provisions stronger, I would support such provisions.

But in considering the conference report on balance, in considering the fact that this is a highly important piece of legislation involving $21 billion of authorizations over a 4-year period, and considering the fact that the antibusing provisions go further than the Senate has ever before been willing to go, then I think, on balance, I shall be inclined to cast my vote in the affirmative.

Mr. President, in regard to the question of busing, it seems to me that the Department of Health, Education, and Welfare and our Federal courts have gone and are still going completely contrary not only to the will of the people of this Nation, but also contrary to the best interests of the schoolchildren themselves.

I strongly condemn the policy of compulsory busing and I hope that Congress will speak out out more strongly on the subject than it appears willing to go at this time. But most certainly the conference report goes further than the Sen-

taken out of the Senator from New York's time.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MONDALE. Mr. President, I ask unanimous consent that the order for the quroum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. JAVITS. Mr. President, I yield the Senator from Minnesota 10 minutes.

Mr. MONDALE. I thank the distinguished Senator from New York.

Mr. President, I approach this vote on the conference report for the Education Amendments of 1971 with mixed and troubled emotions.

I am proud of this bill, which represents years of hard work by myself and other members of the Education Subcommittee under the dedicated chairmanship of the distinguished Senator from Rhode Island (Mr. PELL), weeks of consideration by the Senate and the House, and 2 months of conference to resolve differences between the House and Senate bills.

The conference report establishes a new program of basic educational opportunity grants, a new commitment that no qualified American student should be denied the resources to attend an institution of higher education.

It contains a desperately needed program of aid to institutions of higher education, to help them meet the soaring costs of postsecondary education, which cannot be met through tuition alone.

It contains the Emergency School Aid Act, a $2 billion program to assist school districts desegregating as a matter of local choice or under legal requirement in providing integrated education of high quality to all students.

It contains the Indian Education Act, sponsored by Senator KENNEDY and myself, which passed the Senate unanimously last October, a measure which, if adequately funded, should go far toward assuring real educational opportunities for the 70 percent of Indian children attending public schools.

Just this one measure alone, embodying many of the fundamental recommendations of the Special Subcommittee on Indian Education originally chaired by the late Senator Robert Kennedy, is of fundamental importance.

In addition, the conference report provides for the establishment of a National Institute of Education, modeled on the National Institutes for Health, to provide the coordinated educational research and development activity now so clearly lacking—which includes a much needed initiative for innovative and creativity in higher education.

Mr. President, this as well is a long overdue and fundamental reform. Serving, as I have for nearly 2 years, as chairman of the Select Committee on Equal Educational Opportunity, I am appalled by the amount we yet need to learn about the best way to educate the children of our country, and particularly about bringing equality of educational opportunity to millions of what I call "cheated children" in America, who are denied the minimum ingredients for a hopeful life, including a decent education.

Hopefully, the National Institute will, for the first time, undertake a broad, thoroughgoing, highly sophisticated, and ongoing series of research and demonstration projects to determine how best to meet this compelling and heartbreaking problem in this country.

This measure also provides for expanding existing programs of assistance to postsecondary education, for protection against discrimination on the basis of sex in educational programs, for a National Student Loan Marketing Association to support the guaranteed student loan program. It provides for the first time for ethnic heritage studies centers in local communities and for still other programs.

Ethnic heritage studies centers are a long overdue proposal to fund studies in the history and cultural tradition of American ethnic groups. There is a great deal of interest in this program. In Minnesota, for example, representatives from the Iron Range would like to establish an ethnic heritage center there, and undertake, while there is still time and while many of the oldtimers are still around, a basic study of the ethnic heritage of the people of that remarkable area of my State. And many other areas of my State see great promise in the ethnic heritage center studies program as well.

This is perhaps the single most important education bill ever before the Congress. Preparation of the legislation contained in this conference report has occupied much of my time for the past 2 years. And the Senator from Rhode Island (Mr. PELL), along with all other members of the committee, are to be deeply commended for the landmark legislation that has been reported from the conference.

The Senator from Rhode Island (Mr. PELL), above all, has spent hundreds of hours listening to the best minds in this country, listening to teachers, parents, professors, and other persons interested in education, and is most responsible for the remarkable and revolutionary measure which now is before the Senate in the form of a conference report.

But, to my great sorrow, I am unable to support this report which contains so much that is innovative and badly needed.

The higher education bill left the House encumbered with three amendments designed to cripple the capacity of Federal courts and agencies to remedy racially discriminatory school segregation under the Constitution and title VI of the Civil Rights Act of 1964.

These amendments would have prohibited use of Federal funds to support desegregation-related transportion, forcing financial hardship on numerous school districts undertaking added transportation under court order or title VI plan.

These amendments would have prohibited the Departments of Health, Education, and Welfare and Justice from encouraging or requiring any transportation to achieve desegregation, effectively barring Civil Rights Act enforcement in many cases.

And they would have required exhaustion of appeals before implementation of any court order involving either transfer or transportation of students.

The Senate responded with the so-called "Scott-Mansfield compromise," which effectively nullified the worst features of the House amendments, permitting funding for transportation or voluntary request of local officials, permitting continued law enforcement under the Supreme Court's guidelines for transportation, and staying orders pending appeal only in multidistrict cases, a developing area of the law where further clarification through judicial review is needed, and where courts themselves have shown willingness to stay orders pending appeal.

The conference has substantially improved the original House provisions. Funds will be available to support transportation, and law enforcement can continue under reasonable guidelines. But the conference report retains the so-called House "Broomfield" amendment, relating to exhaustion of appeals, through January 1, 1974. This provision would represent the first congressional retreat from the national commitment to nondiscrimination in public education embodied in the Civil Rights Act of 1964.

The amendment, in my opinion, is badly drafted, and it may well be found to have no legal effect. But the intention of its principle sponsor seems clear enough. The provision is designed to postpone all orders, in all cases—however simple—involving either the transfer or transportation of children to achieve desegregation. All desegregation—even straightening a "gerrymandered" school zone line—requires "transfer" of students from one school to another. And a clever lawyer can keep the average case on appeal for years.

If the intention of its sponsor is given effect, the Broomfield amendment will halt 14th amendment enforcement in its tracks for up to 18 months—6 months longer than President Nixon's proposed moratorium.

I cannot support this provision, for two reasons. First, I believe the Broomfield amendment is unconstitutional. Its provisions for extensive delay in the simplest cases contravene the Supreme Court's rulings in *Alexander* v. *Holmes* 269 U.S. 19 (1969), and *Carter* v. *West Feliciana Parish*, 396 U.S. 226 (1970), where the Court ordered immediate implementation of plans pending appeal.

Under explicit holdings of this Court the obligation of every school district is to terminate dual school systems at once and to operate now and hereafter only unitary schools.

Second, I believe the Broomfield amendment's vain and unconstitutional attempt to halt all desegregation tragically distracts attention from the legitimate concerns of parents of all racial and ethnic backgrounds.

We cannot address these real concerns—the concern of minority group

of 1953, the General Education Provisions Act—creating a National Foundation for Postsecondary Education and a National Institute of Education, the Elementary and Secondary Education Act of 1965, Public Law 874, 81st Congress, and related acts, and for other purposes.

Mr. BEALL. Mr. President, as a member of both the Education Subcommittee and the conference committee, I urge favorable Senate action on the Conference Report on S. 659, the Education Amendments of 1972.

The issues confronting the Congress were both numerous and complex. The bill that emerged from the conference committee represents a compromise hammered out in extended conference meetings.

When the legislation passed the Senate on August 6 of last year, I said:

> This measure is both massive and monumental. It is not only for the moment, but for the future.

Truly, this bill is one of the most significant education measures ever enacted by the Congress of the United States. It is designed to carry out the historic pledge made by the President of the United States when he declared:

> No qualified student who wants to go to college shall be barred for lack of money. That has been a great American Goal; I propose that we achieve it now.

The pending measure is designed to bring about a realization of this great national goal.

To achieve this goal of making postsecondary education available to all with the ability and desire to attend, the bill authorizes a new student assistance program called "basic educational opportunity grants", which is viewed by the conference committee as the foundation upon which all other Federal student assistance programs will be based. Under this program, the student will be entitled to receive a grant of $1,400 minus expected family contributions. The amount of the grant, however, could not exceed one-half the actual cost of attending the institution selected by the student.

In addition, present student aid programs such as work study, the national defense student loans, the guaranteed student loan program, and the educational opportunities grants are extended and improved. Furthermore, there is created a student loan marketing association whose function will be to buy, sell, and warehouse guaranteed student loans, thereby making it possible for more loan funds to be available to more students. The legislation also authorizes a new program of matching grants to States to encourage them to increase their appropriations for student scholarships.

Like other Members of Congress, I have spoken to many presidents of colleges throughout the States and know of the financial difficulties that many are experiencing. The bill for the first time provides a program of institutional assistance to the Nation's universities and colleges. This new program of grants to higher education institutions will be allocated under a formula which apportions 45 percent of institutional assistance on the basis of the total amount of supplemental educational opportunity grants, work study, and national defense student loan funds paid to students at each institution with a formula weighed to give more funds to small institutions; 45 percent on the basis of the number of basic grant recipients at each institution, again with the formula weighed to give the more funds to smaller institutions; and 10 percent of the funds appropriated will be allocated on the basis of graduate students at each institution.

Realizing that there will probably be insufficient funding initially for these programs, various limitations and provisions dealing with this eventuality are provided.

Finally, under institutional assistance, there is a veterans cost of instructions payment. Under this program each institution of higher learning will receive $300 for each veteran attending school and an additional $150 for each veteran who is in a special or remedial program. To be eligible for this program, the institution must increase its enrollment of veterans by 10 percent to be initially eligible.

Also under institutional assistance provisions, I am pleased that the conference committee adopted S. 2154, the emergency assistance for institutions of higher education, which was authored by me and cosponsored by Senator DOMINICK. The bill as introduced authorized $150 million over a 2-year period, but the conference committee reduced the authorization level to $40 million. I am convinced that this interim emergency assistance will be needed to save some institutions from financial disaster over the next 2-year period until the appropriations level for institutional aid is high enough to help the Nation's colleges and universities. I was disappointed, however, that the provisions of this program authorizing grants to improve the planning and managing capabilities of institutions of higher education were dropped. I believe there is a great need for improving management and encouraging innovation in this respect. I hope that the $145 million authorized by the legislation for improvement of postsecondary education will be able to meet the intent of this part of my proposal.

Also, I am delighted that the conference committee included the community college provision, which was found in title X of the Senate bill, and in addition, added the occupational education program of the House bill. This occupational education program was similar to S. 1856, cosponsored by me on the Senate side.

The community college provision authorizes a program for community colleges designed to help them improve educational opportunities in the various States; $275 million over a 3-year period is authorized for the purposes of this title. Grants can be made for planning, development, establishing, and conducting initial operations of the community colleges. Along with Commissioner Marland and others, I have been speaking on the need to improve and emphasize occupational education programs in the country and I am delighted that this is included in the final product. The bill, as before the Senate, authorizes a new program to assist the States in the designing, establishing, and conducting programs of postsecondary occupational education with an authorization of $100 million for fiscal year 1973, $250 million for fiscal year 1974, and $500 million for fiscal year 1975. Occupational and vocational education has been the stepchild of education in this country for too long. It is time that the country give the occupational education the support and resources that are needed to do the job.

The legislation also authorizes a National Institute of Education which is designed to redress the sorry state of educational research. It is no secret that we know very little about the learning process as, for example, how students really learn to read.

As the President stated:

> We must stop pretending we understand the mystery of the process.

Our social problems and rising expectations underscore the need for a quantum leap in educational research, development, and equally important, dissemination of such results to the classroom. The need for expanded research programs in education is evidenced by comparing additional research expenditures with industry and other fields.

Industry, for example, spends about 4 percent or $8 billion of net sales on basic and applied research.

In the health area, we as a nation spend approximately 5 percent or $2.5 billion of the total national expenditures for health on research.

In agriculture, we spend an amount equivalent of about 6 percent, or $900 million annually, of the total net income from farming on research development and application by Government agencies, colleges, and industry.

In the defense area, we spend approximately 3.87 percent or $7.6 billion a year for research and development.

Yet, in education research, expenditures only a few years ago were only about one-tenth of 1 percent of the total educational budget. Today research expenditures amount to about one-fourth of 1 percent or about $125 million a year.

Thus, there is little question that educational expenditures for research and development must be greatly expanded and I am delighted that these two powerful vehicles for education change and reform, the Institute and provisions for support for improvement in postsecondary education, are included in this legislation.

The authorization for the national institute is over one-half billion dollars over a 3-year period. It is my hope that the national institute will give particular attention to the reading problem. I believe that reading is the key to success in school as well as success in later adult life. It is my hope that this will be the number one priority of the new national institute.

There are numerous other important provisions of S. 659, such as the sections

volume of Federal student aid funds it received. Ten percent of the allocation will depend on the number of graduate students that a college enrolls.

These cost of instruction payments will be geared to increase as the size of the institution grows smaller. In this way, the conferees took note of the special problem of the small liberal arts schools, which have been hit hardest by the financial crisis.

Also, there was an attempt to provide $40 million in emergency assistance over the next 2 years to help put the financial props back under some of the Nation's colleges which are suffering the most.

In addition, the conferees increased grant authorizations for undergraduate and graduate facilities and expanded the availability of construction loans.

The conference version of S. 659 retains almost in its entirety the Senate direct assistance package for the expansion of the Nations' community colleges. Some $275 million has been authorized over the next 3 years to provide for new community colleges, and the expansion of existing colleges.

A similar effort to expand the vocational institutes of higher education occurred as the bill establishes within the Office of Education a Bureau of Occupational and Adult Education and authorizes $850 million for the next 3 years to strengthen occupational education programs.

In this way, a major effort was undertaken to reverse the trend of decreasing Federal assistance to the institutions of higher education.

EDUCATIONAL DIVERSITY AND REFORM

The conferees adopted major new provisions aimed at improving the development of the teachers and counselors and administrators who direct our educational system. The teacher corps is continued and given new independence within the Office of Education and the efforts to recruit and train teachers for elementary, secondary, vocational and higher education are expanded. In addition, new provisions are included to improve the education of disadvantaged and bilingual children through retraining teachers, employing high school and college students as tutors and improving teacher training programs. In committee, my amendment to focus greater attention on the use of these programs for the needs of bilingual children was adopted with specific earmarking for that purpose.

The bill insures that there will be a single Federal agency headed by an Assistant Secretary for Education who is spokesman for Federal education policies.

To accomplish this purpose, the committee establishes a Division of Education within the Department of Health, Education, and Welfare. The Division will include the Office of Education and a new National Institute of Education.

The new Institute will continue its function of providing a coordinated system of research into higher education as provided by the original Senate amendment. But, in addition, it will also include the grant authority of the proposed National Foundation to promote innovation in the design of post-secondary education, in the modes of teaching and learning and in the ways in which higher education can be opened to all segments of our population.

In this way, the need for diversity and reform and innovation in higher education can be opened to all segments of our population.

In this way, the need for diversity and reform and innovation in higher education has been met by the conferees. For the first time, there is a focus of educational reform efforts and $250 million authorized over the next 3 years to fund those reform efforts.

I believe the combination of these programs represents a creative and thoughtful effort at expanding the opportunities of higher education and of offering a Federal commitment to improve the standard and quality of that educational product.

INDIAN EDUCATION

In a separate provision, the amendment I originally introduced to reform our Indian education programs in this country was accepted by the House conferees. The suggestions of Congressman MEEDS of the House were helpful in refining the proposals. The Indian education program reflects the year-long hearings conducted by the Special Subcommittee on Indian Education in 1968. The bill establishes three new programs: first, to assist local educational agencies in meeting the special needs of Indian students and in maintaining and operating their schools; second, to provide funds for special programs and projects to improve Indian educational opportunities; and, third, to support the improvement of adult Indian education.

DESEGREGATION ASSISTANCE

In addition to the higher education bill, the current measure contains the legislation that was passed by the Senate previously as the Emergency School Aid and Quality Integrated Education Act. The combined provisions now in the bill authorize $1 billion for each of the next 2 years.

While the House conferees objected to the specific earmarking of funds for educational parks, the basic provisions of the Senate bill remain, although in modified form. Particularly important is the successful effort to retain special incentives for bilingual education programs.

The overall thrust of the measure is to offer to the school districts across this land which are actively seeking to provide quality integrated education, the resources necessary for that purpose. And there are protections present to avoid the distortions which occurred in the use of the original emergency desegregation funds 2 years ago.

Thus, we have a monumental legislative achievement which reflects the long hours of bargaining between Senate and House conferees. The credit for the richness of the educational benefits set forth in this omnibus measure are due not only to Senator PELL but to Senator MONDALE, Senator DOMINICK, Senator JAVITS and the other members of the Subcommittee of Education as well. And the work of Chairman PERKINS of the House Education and Labor Committee, Congressman BRADEMAS and the other House conferees also was vital in molding the present legislation.

But for all of the benefits for the educational system provided by this measure, the drastic effects on desegregation called forth by the antibusing provisions make it impossible for me to vote in favor of the conference report.

What we would provide to the higher educational system would be outweighed by the blatant attack on equality of education contained within the busing amendments. I could not answer the question of a black student denied the opportunity for an equal education by a Senate provision I had voted for. If we are to find the resolution of racial disunity, then it will only come if our political leaders can communicate their determination to preserve equal opportunity for all groups within this Nation.

To accept an amendment which could be interpreted as calling for the delay of all school desegregation orders undercuts that determination and leads the Nation away from an integrated society. I refuse to turn in that direction and I therefore must sadly vote against this bill.

Mr. WILLIAMS. Mr. President, we are today considering an historic piece of legislation designed to provide new directions in the Federal effort to increase educational opportunities in the United States. It represents perhaps the most far-reaching and significant program ever developed and approved by the Congress to insure continued excellence in the American system of postsecondary education. It has been called by one newspaper "the most important piece of legislation to come out of the 92d Congress."

S. 659 was first introduced in the Senate on February 18, 1971. On August 6 of last year it passed the Senate by a unanimous vote. Two months later the House of Representatives passed its version of this bill, and on March 1 of this year, after an extended debate surrounding the issue of school busing, the Senate once again voted its approval of this legislation.

As every Senator knows, the conference with the House has been a long and grueling one. We were faced with almost 300 substantive differences which had to be painstakingly discussed and carefully reconciled; and after 10 weeks of hard work which culminated in an all-night session a week ago today, the conference was able to reach the agreement which is now before us.

I could, of course, speak at great length about each of the important provisions of this bill. Every change in an existing law has been fashioned to substantially improve upon current programs and to eliminate abuses and duplications which have come to our attention. But there are three major initiatives which are critical to the future of higher education in the United States and which merit our special attention.

The student assistance programs which we enacted beginning in 1958 have gone far in opening the doors to higher education for a large segment of our society. National defense student loans, the guaranteed student loan program, edu-

It is all further complicated by the fact that there is no doubt some busing proposal will be adopted and that proposal is likely to raise even more serious constitutional and practical problems.

Nothing will be accomplished by defeating the report and a major education bill will be lost in the process. I hope, therefore, that the conference report is adopted. If my vote is needed, I will support it. If not, I will vote "no" as a protest against the conference modification of the Senate busing amendment.

Mr. ROBERT C. BYRD. Mr. President, I wish to express my strong support for the conference report on S. 659, the Higher Education Act of 1972. I believe this legislation represents one of the greatest steps we have taken in the educational field and certainly it is legislation which is sorely needed.

This conference report represents far more than individual amendments aimed at improving our existing system. This measure, if enacted, will establish a new type of Federal assistance to educational institutions, in that it will provide the necessary assistance, without allowing the Government to interfere with the institutions' independence of action.

The key provision of this bill is a new program of grants for needy college students. These grants will provide a maximum $1,400 annual subsidy to every needy college student, minus the amount his family can reasonably be expected to contribute toward his education. This Government contribution to his education would be reduced gradually, according to his family income level, until it would disappear at the $13,000 income level. This bill would continue funding the present student grants, low-interest direct loans, and work-study pay proposals.

One of the most innovative features in this bill is a new type of college operating subsidy, also called a "cost of education" grant. These funds are distributed to educational institutions based on the number of federally assisted students enrolled, and additional funds would also be allocated to institutions based on the number of their graduate student enrollment.

This bill also authorizes: A National Institute of Education, which will finance educational research at all levels of schooling.

Immediate aid to those educational institutions which are in the worst financial shape by authorizing $40 million to be spent over the next 2 years.

Funds to finance reforms in education.

The establishment of a student loan marketing association, designed to expand Government-backed private loans to students by buying up loan paper from banks and other lending institutions.

I believe this is one of the most comprehensive approaches to educational assistance which has been considered by the Congress in the last decade, in that students may now have a choice of which schools they wish to attend, regardless of their economic condition. This legislation will make it possible for them to select a school of their choice without being wholly influenced by their economic plights, and at the same time, colleges would be competing for these students, who would be bringing additional Federal funds for their particular institution. I believe this will expand the educational opportunities for needy students and at the same time create pressure on these institutions to continually upgrade their facilities and their curriculae.

It is significant that the Carnegie Commission on Education has characterized this bill as the most important piece of legislation to be brought before the Congress since the passage of the Morrill Land Grant Act of 1862. We must have a modern education system to meet the demands of this society, and an educational system that will provide assistance for those students who are meritorious, deserving, and capable of pursuing a college-level work. I believe this bill goes a long way toward meeting these needs. I commend the chairman of the Education Subcommittee and the other members of the Labor Committee for their diligence and perseverance, in being able to report and carry through the legislative process, to this stage, this important legislation.

Mr. JAVITS. Mr. President, I ask for the yeas and nays on the conference report.

The yeas and nays were ordered.

The PRESIDING OFFICER. The hour of 3:30 having arrived, the Senate, under the previous order, will proceed to vote on the conference report on S. 659, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. MANSFIELD (after having voted in the negative). Mr. President, on this vote I have a pair with the distinguished senior Senator from Mississippi (Mr. EASTLAND). If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." Therefore, I withdraw my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Idaho (Mr. CHURCH), the Senator from Mississippi (Mr. EASTLAND), the Senator from Oklahoma (Mr. HARRIS), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from North Carolina (Mr. JORDAN), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Wyoming (Mr. MCGEE), and the Senator from South Dakota (Mr. MCGOVERN) are necessarily absent.

I further announce that the Senator from Utah (Mr. Moss) is absent on official business.

I further announce that, if present and voting, the Senator from North Carolina (Mr. JORDAN), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from Minnesota (Mr. HUMPHREY) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Idaho (Mr. JORDAN), and the Senator from Maryland (Mr. MATHIAS) are absent on official business.

The Senator from Massachusetts (Mr. BROOKE), the Senator from Hawaii (Mr. FONG), the Senator from Wyoming (Mr. HANSEN), the Senator from Oregon (Mr. HATFIELD), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Arizona (Mr. GOLDWATER) is detained on official business.

If present and voting, the Senator from Hawaii (Mr. FONG), the Senator from Oregon (Mr. HATFIELD), and the Senator from Illinois (Mr. PERCY) would each vote "yea."

On this vote, the Senator from Wyoming (Mr. HANSEN) is paired with the Senator from Massachusetts (Mr. BROOKE). If present and voting, the Senator from Wyoming would vote "yea" and the Senator from Massachusetts would vote "nay."

The result was announced—yeas 63, nays 15, as follows:

[No. 185 Leg.]

YEAS—63

Aiken	Dole	Randolph
Allen	Dominick	Roth
Allott	Eagleton	Saxbe
Baker	Ellender	Schweiker
Bayh	Ervin	Scott
Beall	Fannin	Smith
Bennett	Fulbright	Sparkman
Bentsen	Griffin	Spong
Bible	Gurney	Stafford
Boggs	Hollings	Stennis
Brock	Hruska	Stevens
Burdick	Jackson	Stevenson
Byrd, Harry F., Jr.	Long	Symington
	Magnuson	Taft
Byrd, Robert C.	McIntyre	Talmadge
Cannon	Metcalf	Thurmond
Chiles	Miller	Tower
Cook	Montoya	Tunney
Cooper	Pastore	Williams
Cotton	Pearson	Young
Cranston	Pell	
Curtis	Proxmire	

NAYS—15

Buckley	Hughes	Muskie
Case	Inouye	Nelson
Gambrell	Javits	Packwood
Gravel	Kennedy	Ribicoff
Hart	Mondale	Weicker

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Mansfield, against.

NOT VOTING—21

Anderson	Hansen	Mathias
Bellmon	Harris	McClellan
Brooke	Hartke	McGee
Church	Hatfield	McGovern
Eastland	Humphrey	Moss
Fong	Jordan, N.C.	Mundt
Goldwater	Jordan, Idaho	Percy

So the conference report was agreed to.

Mr. PELL. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. SCOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PELL. Mr. President, at this time I would like to pay particular tribute and to express my personal thanks to my colleagues who were of such great assistance during both the development of S. 659 and in the conference recently concluded.

Initially, I would like to thank the junior Senator from Colorado (Mr. DOMINICK) for the excellent and conscientious way he fulfilled his responsibility as ranking minority member of the subcommittee. Moreover, without his help there could not have been a conference report.

the institution would then make its decisions about individual supplemental grants as it determines.

GUARANTEED LOANS

Mr. Speaker, in terms of students and dollars the guaranteed student loan program is our largest program. Last year over 1 million students borrowed over $1 billion.

All of us on the committee are concerned about the default rate on these loans and the fact that some students are getting subsidized guaranteed loans and using the proceeds for purposes other than to meet educational costs.

Another concern of the committee has been the needs of middle and upper middle income students. Under present law all loans made to students with adjusted family incomes of $15,000 or less have the interest paid by the Government while they are in school and during a grace period. All students above $15,000 get no interest subsidy.

I believe the conference report provides a much more equitable rule than the habitually $15,000 rule. Why should the Government pay the interest on a student loan, all of which is not needed to meet educational costs? Especially when we do not provide an interest subsidy to students above $15,000 who are truly in need of a loan in order to attend their college or university.

The conference report provides for an institutional determination of the amount a student needs in order to attend that institution. The need is on top of whatever other assistance from family, the State, the institution, other Federal programs or anyone else provide. This amount is made as a recommendation to the lending agency. We continue to leave to the banks of the final determination of the amount of the loan. But I certainly would not expect any lending institution to exceed the institutional recommendation unless there is just cause. And I would expect the guaranty agencies, including the Federal Government, to disapprove the guaranty of such subsidized loans which exceed the institution's recommendation by any substantial amount without proper justification.

Mr. Speaker, any student may also apply for a guaranteed nonsubsidized loan—one which we have come to term a "loan of convenience" in addition to whatever amount of subsidized loan he might have. Of course the sum of these two loans could not exceed the statutory limits.

OCCUPATIONAL EDUCATION

Mr. Speaker, I am especially pleased that legislation which I introduced earlier this Congress relating to occupational education is incorporated in the conference report. Although its thrust is the support of postsecondary occupational education, it will encourage and support better counseling about the world of work in both elementary and secondary education.

NATIONAL INSTITUTE ON EDUCATION

The President proposed a National Institute of Education in the last Congress and again in this Congress. I think it holds promise of providing some new answers to the old problems of teaching and learning.

The conference report spells out that NIE will have a major responsibility for dissemination as well as for research and development. I think it is important that NIE have good communications with practitioners in our State and local education agencies. I believe a good educational system will be increasingly dependent on strong and respected leadership at the State level. And I believe we have seen a great improvement in this regard in the past 5 or 10 years.

So it is my hope that NIE would foster good relationships with State departments of education, encouraging them to provide ideas and feedback as one source of input to the NIE planning process. The task of dissemination is a very broad responsibility. Many channels must be used to get good ideas understood at the local level. Here again, the State department of education can make major contributions in assisting NIE in carrying out its functions of dissemination and demonstration of the products of NIE research.

State participation can be accomplished through such means as the participation of State education officials in the advisory council, NIE-State agency development of research projects, joint NIE-State agency staff development, and NIE dissemination grants to the State education agencies.

INNOVATION

Although the conference report does not include the President's proposal for a National Foundation on Higher Education, it does give the Secretary of Health, Education, and Welfare new authority to encourage and support projects similar to those in the proposed foundation. I believe the conferees look forward with great expectation to the stimulation of new approaches to postsecondary education, the development of new types of educational institutions, and noninstitutional-based learning and credentialing systems.

In order to accomplish this challenge, I would hope that the Secretary will be careful not to allow this new authority to get lost as simply one more program in one of the existing units of the Office of Education. I believe it must have some reasonable amount of flexibility and autonomy, as well as the involvement of many individuals outside of Government, in order to provide the creative leadership which we all expect.

Mr. Speaker, I would like to go on discussing the several other important provisions relating to higher education but as I said, I think most of them have been adequately discussed on the floor previously.

Although most of the conferees would have preferred that this legislation not be saddled with the issue of busing, we had no choice.

I think that the conference report on S. 659 is a victory for the House of Representatives with respect to the so-called antibusing amendments. The House conferees were under instructions to adhere to the House version of the amendments. They voted time after time to refuse to recede on any part of the language. But in the end, as in all free conferences, some compromises were required. The compromise reached I hope is acceptable to every Member who voted for the antibusing amendments and to instruct the House conferees.

First, it must be understood that the Senate language did not differ at most points from the language of the House amendments. The Senate language only modified or limited the scope of the House language. This is significant, because in all previous amendments of this kind we have ended up with language which limited the use of funds to achieve racial balance in the schools. No court has ever admitted to requiring racial balance, even when a nearly exact balance was the end result, and the U.S. Supreme Court in the Swann decision (*Swann et al. v. Charlotte-Mecklenburg Board of Education et al.*, April 20, 1971) said it would reverse a decision which held "as a matter of substantive constitutional right, any particular degree of racial balance or mixing" in the schools.

So in previous legislation the Congress has been tilting at legal windmills. But the Ashbrook-Green amendment addressed itself to the use of funds not only to effect some scheme of racial balancing, but for "transportation of students or teachers—in order to carry out a plan of racial desegregation of any school or school system." The Senate retained this language, as does the conference report, and thus for the first time since the Civil Rights Act of 1964 the Congress is addressing itself directly to plans of desegregation, and this time in terms of limitations on methods of carrying out such plans.

The Senate in its version of the Ashbrook-Green amendment did something more than to limit the scope of the amendment—it also added absolute prohibitions against the use of Federal funds for transportation, or against a Federal officer ordering the use of State or local funds for such purposes—

When the time or distance of travel is so great as to risk the health of the children or significantly impinge on the educational process of such children, or where the educational opportunities available at the school to which it is proposed that any such student be transported will be substantially inferior to those opportunities offered at the school to which such student would otherwise be assigned under a nondiscriminatory system of school assignments based on geographic zones established without discrimination on account of race, religion, color, or national origin.

The prohibition relating to too great a "time or distance of travel" comes directly from Chief Justice Burger's opinion in the Swann case, but the prohibition against assignment to an inferior school is a new concept, and together these distinctly strengthen the original House language.

Let us, therefore, at this point examine the House amendment offered by Mr. ASHBROOK and the amendment to it offered by Mrs. GREEN—and most important of all, the Broomfield amendment—so that we may understand the action of the conference.

Unlike the Broomfield amendment, the Ashbrook-Green amendment was not a

Grants, with the only difference being that middle income students' grants will naturally tend to be smaller.

(9) *What limitations does the conference report place on funding of the basic grant program?*

The Conference Report provides that Basic Grants may not be paid until the National Defense Student Loan and College Work-Study programs are funded at a level equal to FY 1972 appropriation, and the Education Opportunity Grants program is funded at a level equal to 75% of FY 1972 original appropriations. This provision was included at the unanimous insistence of the House conferees.

(10) *What about existing students aid programs?*

All existing student aid programs, including Educational Opportunity Grants, College Work-Study, National Defense Student Loans and the Guaranteed Loan program, will be continued for three years. The Conference Report substantially follows the eligibility amendments in the House-passed bill which will provide greater access to these programs for students from middle-income families, particularly those attending private colleges and universities, where costs are normally higher than at public institutions.

The Conference Report also contains a new National Student Loan Marketing Association for the purpose of providing greater liquidity for student loan paper, thus enabling banks and other lending institutions to substantially enlarge their student loan programs. The $15,000 annual family income limitation on the Federally subsidized loan program is deleted—all students, regardless of family income, will be able to receive a Federally subsidized loan through a bank or other lending institution so long as a student can show that he or she is in need of the loan.

CONFERENCE REPORT HIGHLIGHTS — HIGHER EDUCATION AMENDMENTS OF 1972

STUDENT ASSISTANCE

All existing programs, including College Work-Study, National Defense Student Loans, Educational Opportunity Grants, and Guaranteed Student Loans, continued for three years.

New program of Basic Educational Opportunity Grants, under which each student would be entitled to $1,400 per year, less expected family contribution. No grant could exceed 60% of what a student needed to attend a particular institution for any year.

Creation of a National Student Loan Marketing Association to buy, sell and warehouse Guaranteed Student Loans, and thereby stimulate new capital for such loans.

INSTITUTIONAL AID

$1 billion annually in direct aid to institutions, both public and private. Note: 45% of the aid would be based on the *number* of Basic Grant recipients at each institution; 45% on the aggregate *amount* of (Supplemental) EOG, Work-Study and NDSL funds paid to students at each institution; and 10% on the *number* of graduate students enrolled at each institution.

$40 million annually in emergency grants to institutions in severe financial distress.

Veterans Cost-of-Instruction Grants to institutions in the amount of $300 for each veteran enrolled, and an additional $150 for each veteran who is in a special or remedial program.

COMMUNITY COLLEGES

Start-up and expansion grants for community colleges. Authorization: $275 million over three years.

OCCUPATIONAL EDUCATION

New program to help the States design, establish and operate post-secondary occupational education programs. Authorization: $850 million over three years.

NATIONAL INSTITUTE OF EDUCATION

New agency established within HEW to support, conduct, and disseminate the products of, research at all levels of education. Authorization: $550 million over three years.

HIGHER EDUCATION INNOVATION

New program of grants to institutions to encourage reform and innovation in higher education. Authorization: $135 million over three years.

EXISTING HIGHER EDUCATION PROGRAMS

All existing categorical aid programs, including facilities construction, extended for three years.

INDIAN EDUCATION

$95 million over three years in grants to local education agencies for programs to help meet the special educational needs of Indian children.

Mr. Speaker, there have been many confusing and misleading statements made concerning the conference report and what it actually contains. Extension of existing programs and the new programs authorized are the product of lengthy and serious consideration by the Congress over a long period of time. In many instances, the conference report contains provisions which are not precisely as anyone of us individually would have written. But the overall impact of the bill is constructive and forward moving. Higher education opportunities and the ability of our junior colleges, 4-year colleges and universities to provide high quality education programs will be critically impaired unless S. 659 as reported by the conference is adopted. Consequently, I urge my colleagues to vote "Yes" on the conference report.

Mr. PERKINS. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Indiana (Mr. BRADEMAS).

(Mr. BRADEMAS asked and was given permission to revise and extend his remarks.)

Mr. BRADEMAS. Mr. Speaker, the conference report the House considers today is truly a landmark in Federal support for higher education. Indeed, I believe it is the most significant Federal higher education measure since the Land-Grant College Act was signed by President Lincoln over a century ago.

The conference report is the result of bipartisan cooperation and compromise, and the product of a great deal of work by Members of both the House and Senate.

I would like to express my warm personal appreciation to the distinguished chairman of the Committee on Education and Labor, the Honorable CARL D. PERKINS of Kentucky, and to the distinguished ranking minority member, the Honorable ALBERT H. QUIE of Minnesota, who have labored long and hard on behalf of this legislation and American higher education.

I would also like to pay tribute to the other members of our committee who helped make possible the conference report today, in particular to our distinguished colleagues, the gentleman from New Jersey (Mr. THOMPSON); the gentleman from Illinois (Mr. PUCINSKI); the gentleman from Illinois (Mr. ERLENBORN); the gentleman from Oregon (Mr. DELLENBACK); the gentleman from Washington (Mr. MEEDS); and the gentleman from Wisconsin (Mr. STEIGER). Without their fine work, we would not have this outstanding bill before us.

Mr. Speaker, the conference report on which we are voting today is truly an historic measure.

It contains provisions of great significance for the whole range of post-secondary education activities in the United States.

In addition to extending all existing higher education programs, the conference report would establish two new programs of special significance:

First. A new program of basic educational opportunity grants, championed by the distinguished Senator from Rhode Island, the Honorable CLAIBORNE PELL, whose leadership in the other body did so much to bring us to this historic day for American higher education.

Under the new basic grant program, each student will be entitled to a grant of $1,400 per year, less the amount his or her family could reasonably be expected to contribute toward his or her education.

Second. A new program of direct aid to colleges and universities, under which each institution of higher education in the United States, public as well as private, will receive a Federal payment based on, first, the number of basic grant recipients enrolled at each institution; second, the amount of other Federal student assistance provided to students enrolled at each institution; and third, the number of graduate students enrolled at each institution.

Mr. Speaker, this legislation, as I have indicated, will establish a landmark in Federal support for higher education, and as might be expected with any measure of such great magnitude, its specific provisions are quite complex.

Indeed, Mr. Speaker, I have been disturbed to find in speaking to many of my colleagues in the House as well as college and university presidents around the country, that some of the provisions of this bill, including the ones I have mentioned above have been widely misunderstood.

Therefore, Mr. Speaker, I would like to take this opportunity to set the record straight as to what the conference committee agreed to with respect to both student aid and direct institutional assistance to colleges and universities.

First, let me address myself to the question of participation by students from middle-income families in the student assistance programs, and in particular in the new program of basic educational opportunity grants.

It is emphatically not true that the basic grant program will be limited to "needy students" in the sense that we use the term to describe students from low-income families.

On the contrary, the basic grant program is intended by the conferees to provide assistance to any student who is in need of help, whether he or she comes from a middle-income or a low-income family. A reading of the statutory provisions contained in the conference report makes clear that we have designed this program so as to prevent middle-in-

come students from being "traded-off" in favor of low-income students, or vice versa, by the Commissioner of Education or anybody else.

And Mr. Speaker, lest there be any misapprehension on the part of my colleagues, let me make it quite clear that the basic educational opportunity grant program in the conference report was agreed to on a unanimous rollcall vote with every one of the House conferees voting for it.

While on this subject, I should also note that the other student aid provisions of the conference report are also designed to make available assistance to students from middle-income as well as low-income families. For example, the House amendment deleting the low-income preference from the college work-study program was adopted by the conferees with the express intent of opening up this program to greater middle-income participation.

In addition, the conference report creates a new National Student Loan Marketing Association to buy, sell, and warehouse guaranteed student loans, and thereby stimulate new capital for such loans. This new entity should vastly expand the amount of loan money available to students from banks and other lending institutions.

Finally, we followed the House bill in deleting the $15,000 family income limitation for participation in the subsidy feature of the guaranteed student loan program, thereby opening yet another avenue of access for students from middle-income families.

So any suggestion that the student aid provisions of the conference report discriminates against middle-income America is simply not accurate.

Second, the Speaker, I would like to address myself to the provisions of the conference report for direct assistance to colleges and universities, and the erroneous apprehension on the part of some that this program means "small comfort" for private institutions.

The formula agreed to by the conference committee should provide nearly $1 billion annually in direct assistance to our colleges and universities, both public and private.

Private institutions today enroll 26.4 percent of the Nation's college student population. In recognition of the fact that private institutions by and large have been experiencing financial distress to a greater extent than have public institutions, the formula contained in the conference report for institutional aid will give private colleges and universities at least 37 percent of institutional aid funds.

Thus the charge that the conference report discriminates against private colleges and universities is simply contrary to the facts. I might add that as a Member of Congress who is proud to represent the University of Notre Dame, Goshen College, Bethel College, Saint Mary's College, and Holy Cross Junior College, I would certainly not favor an institutional aid program that would operate against private institutions getting a fair share of Federal assistance.

Mr. Speaker, let me stress one more point on this particular subject. The direct aid provided to colleges and universities by the conference report is, indeed, direct and without strings attached. It is not, as some have erroneously thought, restricted to remedial services or other special services for disadvantaged students. Rather the new institutional aid may be used by each college and university for any instructional purpose it sees fit, subject only to the requirement, of course, that funds obtained under this program may not be used for sectarian purposes.

Mr. Speaker, I would touch on one other matter before concluding my remarks.

As you know, the Select Education Subcommittee, which I have the honor to chair, held extensive hearings last year on the proposed National Institute of Education, which will support research and development in education at every level.

Our subcommittee heard from some of the leading figures in American education on the need to increase the paltry one-third of 1 percent which we are currently spending, at all levels, on research and development in education.

Repeatedly, Mr. Speaker, witnesses told us of, first, the need for much more educational research of high quality, and then to insure the dissemination of the results of research into the educational system, where it could make an effective impact on improving the learning process.

The proposed National Institute of Education was accepted by both Houses of Congress, and the conferees agreed to House language insuring that the institute would be a strong, viable research and development agency on a par with the Office of Education.

Mr. Speaker, for the sake of brevity I include at this point an outline I have prepared explaining the purposes, functions, structure, and authorizations of the institute:

NATIONAL INSTITUTE OF EDUCATION

PURPOSES

The purpose of the Institute is to promote reform and renewal at all levels of education by advancing education as an art, science, and profession, strengthening the scientific and technological foundations of education, and building an effective educational research and development system.

FUNCTIONS

To accomplish these aims, the Institute will:

Conduct educational research;

Collect and disseminate the findings of educational research;

Assist and foster such research, collection, dissemination, or training through grants, or technical assistance to public or private organizations, institutions, agencies, or individuals;

Promote the coordination of educational research support within the Federal Government;

And construct or provide for such facilities as are necessary for these purposes.

An essential element in the achievement of the purposes of the Institute is the strengthening of the links between research and development and educational practice. The whole complex set of dissemination/utilization functions—including National Center for Educational Communication activities such as ERIC PREP, Publishers Alert—will, therefore, be responsibilities of the National Institute of Education.

STRUCTURE

A new Division of Education within the Department of Health, Education, and Welfare will be established. The Division will be headed by a new Assistant Secretary of HEW, and will be composed of the National Institute of Education, and the Office of Education—which are to be separate, co-equal administrative units. The Institute will be headed by a Director and the Office of Education by the Commissioner—both appointed by the President, with the advice and consent of the Senate.

A National Council on Educational Research will be responsible for general policies governing the Institute. The Director, however, will be in charge of overall operations and allocations decisions. The independent Council with decision-making authority. Exclusive of the costs of administering the program, and the strong Directorship will hopefully ensure a vigorous institute.

FUNDS AUTHORIZATION

$550 million is authorized for the Institute over a three-year period. At least 90% of the funds appropriated for any fiscal year, must be expended through grants and contracts with public or private organizations, institutions, agencies, or individuals.

What I want particularly to explain to Members of the House today, Mr. Speaker, is the intent of the conferees with respect to one aspect of our concern to insure that educational research relates to educational practice.

If the purposes of the Institute are to be attained, clearly it is essential that the linkages between these two functions of research and practice be strengthened.

These linkages can be achieved in two principal ways.

First, the whole complex set of existing dissemination/utilization functions relating to education—including the National Center for Educational Communication activities such as ERIC, PREP, Publishers Alert—will be responsibilities of the National Institute of Education.

Second, Mr. Speaker, the conferees intend that the State education agencies play a part in the dissemination functions of the Institute.

Although as a Federal agency, the Institute must have specific links to existing State and local education agencies, the problems of communicating directly with thousands of local education agencies and coordinating product distribution to them could unnecessarily sap the resources of the Institute.

State education agencies are in an advantageous position to carry out the essential dissemination of Institute supported research. There are several reasons they can be helpful in this respect.

First, State education agencies are the existing State mechanisms for administering certain Federal programs such as title III of the Elementary and Secondary Education Act, as well as State-funded developmental programs in many States. State education agencies therefore already have experience as channels to local districts for program improvement.

Moreover, Mr. Speaker, the development of State intermediate offices has accelerated in many States—frequently under increasingly vigorous State leadership—and these regional offices provide additional administrative channels for the dissemination of Institute products.

I should say, Mr. Speaker, that the conferees' intention that State education agencies be utilized in the dissemination activities of the Institute is not based solely on the practical fact that these agencies have the capacity to carry out this essential function.

The intent is also based on the fact that such utilization is increasingly important, because the States are being held increasingly accountable for equalizing classroom opportunity and fiscal support for schools.

The Federal Government must clearly be helpful in making available the results of the new national educational research effort represented by the National Institute of Education—and this will mean in part working with the State education agencies.

But beyond the participation of State education agencies in the dissemination, diffusion, and demonstration of Institute supported research results, the agencies will also participate in both policy development and the specification of research needs.

It is intended that this participation, Mr. Speaker, be accomplished through such means as participation in the National Council on Educational Research, joint research design development, and joint staff development programs.

Mr. Speaker, the conferees' decision to assign dissemination and utilization functions to the Institute, and the provision that State and local educational agencies play a large part in these crucial areas, will help insure that the results of research in education do not gather dust on musty shelves, but, instead, make a real difference in the quality and accessibility of education at all levels.

Mr. Speaker, over the course of the last 2 years our committee has heard witness after witness describe the financial plight of American higher education today. The new institutional aid program contained in the conference report constitutes a rational and considered answer to the financial travails of our colleges and universities, especially those in the private sector.

In addition, the conference report does justice to the philosophy that every American young man and woman, regardless of his or her family's financial status, may aspire to the best education this country can provide and of which he or she is capable.

For this measure to fall now on the basis of an unreal promise of a preferential motion that would destroy the principal new programs in this legislation would be a tragedy we cannot afford to see happen.

I strongly urge adoption of this conference report.

Mr. REID. Mr. Speaker, we in Congress have today a unique opportunity to vote on an historic piece of legislation. As many have already said, this report could well be the most significant advance in Federal support for institutions of higher education since the Land Grant College Act over 100 years ago.

As a member of the Education and Labor Committee which considered this legislation over the past few years and as one of the conferees who worked for over 2 months to reach agreement on this conference report, I can say clearly that this bill is vital to higher education and essential to millions of students.

Both students and colleges and universities in every congressional district in this country will benefit from major new provisions in this bill and from the continuation and expansion of several other excellent existing programs.

Beginning in 1958 with the enactment of the National Defense Education Act, the U.S. Government made a special commitment to guarantee qualified high school graduates an opportunity to seek a postsecondary education. Today over 2 million students are benefiting from four major programs: educational opportunity grants, college work study grants, National Defense Education Act loans and guaranteed student loans. Although these programs have served many students over the past several years, it was felt by the conference that more needed to be done to insure that a student's access to a postsecondary education is not limited by financial needs.

The Senate committee report found, for example, that a student from a family with an income over $15,000 is almost five times more likely to attend college than a student from a family with an income under $3,000. Responding to this gap in our higher education system, the higher education amendments provide that in addition to present student aid programs, there will be created a program of basic educational opportunity grants, an entitlement to every college age youth of $1,400 minus the amount of money that his family can reasonably be expected to contribute to the cost of his education. These grants are available to students as a matter of right, regardless of where he or she lives or goes to college, and they are not limited to low-income students. Middle income students as well will be able to receive basic grants. For the first time the Federal Government has made a commitment to the principle that every qualified high school graduate is entitled to further his education—at a community college, vocational institution, or a 2- or 4-year college or university.

For the past 2 years we have seen evidence of an increasing financial crisis among many higher education institutions in this country. In 1971 over a dozen separate studies had been released documenting a new depression in higher education as the gap widened between expected revenues and estimated expenditures. Mushrooming enrollments, the need to increase the quality and variety of courses, increased expenditures on student aid coupled with accentuated inflation in the economy contributed to sharply increasing costs of education per student.

And with this increase in cost has come a decrease in revenue available from State, private, and Federal sources. Perhaps hardest hit have been the small private institutions, dependent on tuitions and donations. But public institutions have suffered too as revenues declined. The Carnegie Commission Study last year documented that 60 percent of the 2,340 institutions of higher education in our Nation were in or headed for financial difficulties. With enrollments up 60 percent from 1965, Federal support is at its lowest since 1966.

The conferees have responded with realistic and substantial direct college operating subsidies. $1 billion will be directed annually to both private and public institutions not only to help schools meet their present financial crisis, but also to provide assistance to higher education institutions to meet the demands which will be made on them in the future. Money will be allocated with 45 percent of the funds based on the number of basic grant recipients at each institution, 45 percent based on the aggregate amount of Federal student aid funds paid to students enrolled at each institution, and 10 percent based on the number of graduate students enrolled at each institution. Payments are weighted to take note of the special problems faced by the small liberal arts colleges which have been the hardest hit by this financial crisis. In fact, it has been estimated that under the formula contained in the conference report, 39 percent of the institutional aid funds will go to private institutions which presently enroll 26.4 percent of the students who attend institutions of higher education. Funds paid to these colleges and universities must be used for instructional expenses incurred in academically related programs. No other restrictions aside from a prohibition against use of the funds for sectarian activities are imposed and thus colleges and universities are free to use these funds in any way they see fit.

Additional institutional aid is provided for by a $40 million emergency assistance program designed to assist the Nation's schools facing the severest crises.

These two new programs—entitlement grants and direct cost-of-education allowances—are the two main provisions of a concept of Federal assistance which I endorsed in 1969. At that time, Congressman JOHN BRADEMAS and I introduced the Higher Education Bill of Rights, incorporating the recommendations of the Carnegie Commission on Higher Education. Today, 3 years later, these ideas have been refined and incorporated into the higher education amendments which we vote on today.

Combined with these two major new programs, several other student aid and categorical institutional aid programs have been revised and extended, thus reversing the trend of decreasing Federal assistance to the institutions of higher education.

The philisophical basis for the Federal student assistance programs, and particularly the new basic educational opportunity grant is that students from lower-income families have less access to financial aid, less opportunity to obtain guaranteed loans, and are less likely to receive help from relatives and private organizations. And institutions serving a high proportion of disadvantaged students have less money with which to help their student populations.

Along with the basic grant program, all existing programs, including college work study, national defense student loans, educational opportunity grants have been continued for 3 years, with expanded eligibility requirements, thus providing much greater access to these programs for students from middle income families. This will be of particular benefit for those attending private colleges and universities where costs are normally higher than at public institutions. The guaranteed student loan program was retained with a new National Student Loan Marketing Association established to expand the availability of credit.

One additional feature of particular benefit to New York State is the creation of a State student incentive grant program, authorizing $50 million annually for grants to States on an even-matching basis to assist them in providing grants to students of substantial financial need. The conference felt that the States have long preceeded the Federal Government in this area of student aid and, that they ought to be assisted in continuing to do so. New York State, with the largest student aid program in the Nation, of over $72 million annually, will derive substantial benefit from this provision.

In the last decade there has been a growing demand to provide diversity in postsecondary education. Both students and educators alike, have recognized that the needs of all students are not served by the traditional 4-year liberal arts college education. Thus there has been a dramatic expansion of community colleges and vocational institutions. Enrollment in community colleges has increased 400 percent in the last 10 years. Responding to this important trend, and realizing its significance for the future of higher education, the conference report contains a program of startup and expansion grants for community colleges and a new program to help States design, establish, and operate postsecondary occupational education programs.

As a member of the House Education and Labor Committee for 8 years, I have constantly been dismayed by the lack of knowledge that we have about how children learn and about the best ways to educate the children in our society—and particularly the millions of deprived children. To date our efforts to learn more have been scattered and uncoordinated. In higher education as well, there is a need for reform and innovation—yet research in this field has continually been relegated to a very low priority. Since 1960 only $1 billion has been spent on research in education, while $7 billion has been spent on agriculture research and $14 billion on health research. For every dollar we spend on education, less than a third of a penny goes for research. For this reason, in 1970, Congressman BRADEMAS and I introduced legislation creating a National Institute of Education. I am most pleased, Mr. Speaker, to see the inclusion of the Institute in the present higher education amendments. This center modeled on the National Institutes for Health will provide for the first time coordinated educational research to stimulate reform and innovation at every level of education. Specifically included in the Institute is the concept of the proposed National Foundation for Postsecondary Education to promote innovation in postsecondary education.

Any one of these programs would represent progress. Together, as I said before, this legislation represents one of the most important pieces of education legislation ever before Congress. Recognizing this fact, colleges, universities, and education organizations from every State in the Nation have voiced their support of this bill.

If we defeat this report today, because we disagree with various provisions in the bill, higher education may not have another chance for many years. We will be saying not now to several million students who need the Federal Government's assistance to move into the mainstream of American life by advancing their education. We will be saying not now to over 2,500 institutions of higher education which have contributed so much and which desperately need our help. Congress, by its response today, may, in fact, be determining the fate of American higher education for many years to come.

Mr. QUIE. Mr. Speaker, I yield 5 minutes to the gentleman from North Carolina (Mr. RUTH).

(Mr. RUTH asked and was given permission to revise and extend his remarks.)

Mr. RUTH. Mr. Speaker, one of the Members has just suggested that we need better order and I thank him. However, I will say that if I cannot command the attention of this group then they can go ahead and talk, it is all right.

My usefulness on the Education and Labor Committee seems to be relegated today to digging out certain things that happen in the committee and some of the things that happen in conference and in interpreting them for my colleagues.

I hope you have my prepared statement which gives the six reasons why I oppose this conference report. Additional copies are available in the cloakroom.

Members of the House know that I supported the House bill, as most of you did, when it was considered last year. Earlier this year when the bill went to conference and was referred back to the House, I offered the motion which was carried to instruct the House conferees to insist on the House language regarding busing.

My opposition to this conference report should not be interpreted by anyone as an intention to kill the higher education bill. The plan is to offer a privileged motion which will include the educational programs, the House busing amendment and to include the titles of the bill which will continue community and vocational education. In the meantime, we can all hope and work for a better prepared higher education bill which will benefit all members of our society.

In case you think all of this malarkey or a snow job by RUTH I want you to look at the report and I state in the margin exactly where in the conference report you can find these things that I have mentioned. So I hope you will use this and I hope you will study it.

I began thinking about this first when I started getting letters from 4-year institutional presidents who were against this bill. Now, when you start getting presidents of institutions who stand to gain starting to tell you to vote against the conference report then, I think it is about time we start examining it.

And I will admit that I have gotten all kinds of telegrams in support saying they want this. However, when the likes of Terry Sanford, the president of Duke University, and he is also president of the National Council of Independent Colleges which oppose the report—and I might also add that I have other colleges that are quite substantial in my area against it. It is time to thoroughly examine the legislation. It reminds me of the case of the Boy Scouts who wanted to get merit badges so they went downtown and stood at the corner and started leading old ladies across the street, and this was fine, but when they got through they had lead a gang of old ladies across the street who did not want to go there.

Now, if you will let me follow my outline that tells you why I oppose the conference report, the first thing is that the conferees did not follow the instructions on busing. And I think we have beaten that horse pretty well to death. And I think you know that they did not follow the instructions. Our distinguished Speaker in his recent ruling said that he could not make the conferees follow the instructions, but that we have to do it, and he said it about as plain as one man can.

Then, there is the inclusion of the metropolitan school district. That is absurd. We have just gotten a reversal in the Richmond case and it was reversed because the judge did not have the right to set up a metropolitan school district and yet here we are passing a law to give them the right to establish such districts.

Then the next thing is the inclusion of veterans' benefits. And the gentleman from New Jersey should know that the veterans' benefits are for the colleges and not for the veterans. And you should remember that along with Tiger TEAGUE, the gentleman from Texas, and other members of our entire Veterans' Committee, we feel our committee should consider this item.

Then we have got the inclusion of the Pell grants, but we do not need them.

If you look at item 4 you will see that if you include the Pell grants with all the other grants a student in college can get $7,900. The Pell program would make it possible for every student in the United States to be eligible for $1,400 to go to college. And it also says less the amount that the family can provide. We have already started people on welfare to have the daddies leave home so that the family can get the money and we are now going to start the students leaving home so that they can get Federal money by saying, "I am not depending on my daddy to get this money." And we have got a lot of smart kids in this country and I expect they will do it.

The veterans cost of instruction amendment encourages colleges to recruit and enroll veterans by having each veteran bring with him up to $300 and in the case of veterans using remedial and PREP courses authorized by the GI bill up to an additional $150. Only 15 percent of the high school graduate veterans—who comprise 60 percent of the 1 million men discharged last year—used the GI bill to attend college or junior college. Cost incentives to the colleges should activate them to enroll additional veterans, and at the same time help them with costs imposed by the $2.2 billion GI bill. The veterans cost of instruction provision is subject to the same safeguards as are the other institutional aid provisions. However, colleges receiving veterans cost of instruction benefits must meet specific requirements to get grants:

The veterans' cost of instruction provision is subject to the same safeguards as are the other institutional aid provisions. However, colleges receiving veterans' cost of instruction benefits must meet specific requirements to get grants:

First, they must have a 10-percent increase in veterans' enrollment;

Second, they must offer veterans counseling services based on the size of the school;

Third, they must run an outreach program with work study money; and

Fourth, they must offer prep and remedial programs. Perfecting amendments that were added in conference release smaller colleges from having to meet the requirement of offering a full-time veterans' counseling office by allowing them to participate in a consortium doing counseling.

Fifty percent of the moneys made available for veterans must be spent on the costs of offering educational and related services to veterans which will enable them to stay in school and successfully complete their courses. A final requirement is that colleges must offer prep and remedial programs authorized by the GI bill.

Unlike World War's GI bill, today's GI bill gives the colleges no financial incentives to recruit veterans. Colleges lose money on each student enrolled, including veterans. The World War II GI bill covered the total cost of college for a veteran and for the college, because many colleges charged—some say, overcharged—in-State GI's out-of-State tuition rates. Therefore, the real cost of education was covered.

In my own State of Wisconsin, only 29.7 percent of the State's Vietnam-era veterans have used the GI bill. This is well below the national average of 38.1 percent. Only 16.1, or about 20,000 Wisconsin veterans, have used their GI bill benefits to attend college or junior college. Based on the Defense Department study, 9.9 percent of Wisconsin veterans, who were high school graduates before they entered the service, used the GI bill to attend college or junior college while 42.1 percent of the veterans who had preservice college used the GI bill for that purpose.

More money to the veterans through the GI bill would fail to solve the problem of the colleges. A president of a leading junior college system has said that student aid is only one leg of a three-legged stool. If veterans fail to bring institutional aid with them, no additional veterans could be taken into his institution because the State legislature was reducing the operating funds available to the college. Veterans' tuition payments would not provide those missing funds to undertake a greater effort in order to aid veterans, we must give the colleges the same incentives we give them to educate other federally aided students.

Lower tuition private colleges should benefit from the veterans cost of instruction amendment. This will give them the means to recruit veterans who will bring with them Federal aid dollars. Giving colleges Federal dollars for doing so, as we are doing in this bill for other categories of federally aided students, should have an impact. No matter how one feels about the war, we must recognize our obligation to those men who served. Many of them were draftees, serving because they were required, and serving well.

In some areas, veterans find that colleges, particularly State colleges and some junior colleges, are turning them away because they have no places. These schools have been hard hit by State legislatures reacting against college students and cutting back on legislative appropriations. Veterans, therefore, are excluded often, because their high school records were not all that good, or because they were released from the services and applied at time of the year which are different than the colleges' normal schedules. For example, many veterans being discharged on programs to cut back the Armed Forces are rejected because their applications are made in May or June, and admissions have closed effectively in April. The moneys these men bring with them may help the colleges to do what many consider to be their duty to men who have served their country.

Just because national public opinion polls show that the country wants to forget about Vietnam, let us insure now that it not forget about its veterans. These young men, above all, should have the chance to receive higher education and we can bridge the gap that now serves to separate them from it.

Further, Mr. Speaker, the requirement that 50 percent of veterans' cost-of-instruction payments be used to provide special resources for veterans' education should be liberally construed to assist veterans in the ways needed to enable them to enroll in and complete college. For example, although emphasis is placed on using GI bill provisions for remedial courses, a number of colleges are undertaking "Upward Bound" for veterans programs. Non-Federal expenditures for such concentrated, remedial, motivational courses would be included in counting the 50 percent. This would be particularly important to encourage colleges to offer remedial courses which provide credit.

Colleges are to be encouraged to work together particularly in consortium arrangements to aid veterans. Thus, there will be limited duplication of effort and effective contact with the veterans.

An adequate counseling program would necessarily involve financial aid counseling. Veterans need a package of loans, part-time jobs and additional scholarships. Because they have been excluded from work-study programs, because of inclusion of GI bill payments, resources, job development is particularly important. Veterans hired to work on this and other questions should count toward the 50-percent requirement.

Another key need is for veteran peer counselors to assist veterans in adjusting to academic training.

It is not intended that the 50-percent requirement for use of veterans' cost-of-instruction payments be applied against financial aid made available to veterans. The exception to this is for veterans hired to implement the colleges' veterans program.

Mr. Speaker, I urge adoption of the conference report.

Mr. PERKINS. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, this debate culminates more than 2 years of intensive activity on the higher education bill. When the House convened the 92d Congress in January 1971, I called the subcommittee chairmen together to indicate that we were going to give higher education special attention. All other committee business was to stand aside, so that there would be no conflicts.

Higher education programs were due to expire on June 30, 1971. For a variety of reasons—all of them valid—the bill was not reported until the late fall. I went to the subcommittee and sat with Mrs. GREEN and the members of the subcommittee for many days. We worked out an excellent bill. My colleagues will recall that on November 5, it passed with a great majority.

Now there is one thing clear to me as I review this legislative history. This is the best possible conference report that could possibly be obtained. It is clear to me also—and it should be clear to every Member present—that the action we take here today will be final.

Now there have been various rumors circulating that there are alternatives which we can turn to if the conference report is defeated. Granted there may be motions available if the conference report should not be accepted, but in my judgment, these would be doomed to failure.

The conference report before us represents the only compromise possible between the divergent views of this House and the Senate on any number of issues. Such compromises were reached only after hours and hours of debate and discussion.

This conference experience has convinced me—and I daresay the majority of the House conferees—that this higher education bill, and only this higher education bill, stands any chance of final enactment this year. Any attempts to further change or revise or add to what is before us at this very moment will fail.

Turning to an analysis of the bill title I covers higher education; title II vocational education; title III a recognization of the Office of Education; title IV Indian education; title V miscellaneous

subjects; title VI Youth Camp Safety; titles VII and VIII emergency school aid and transportation of schoolchildren; title IX sex discrimination; and title X, direct aid to institutions of higher education.

I shall not in this statement touch upon every matter contained in the bill. Each element is fully explained in the joint statement of the managers. Suffice it to say, the conferees have brought to you a 3-year bill which extends certain of the present programs and authorizes new programs through fiscal year 1975.

Mr. Speaker, I have referred to the compromises. I do not wish to be misinterpreted in utilizing this term to indicate that the conference report compromises the House positions on the most important issues. It does not.

Paramount in the House bill was the authorization of a program of direct general assistance to institutions of higher education. That concept has been preserved. The conference report does not, as did the Senate bill, give secondary emphasis to institutional aid. General purpose moneys can begin to flow almost immediately to institutions of higher education, if the conference report is adopted.

Keep in mind there would be no general assistance if we simply have a continuing resolution.

Yes, the formula for distributing the funds is different from the House version. The mechanism—but not the concept—was compromised. What does the compromise mean? It does not, as some have suggested, slight private education. To the contrary, based on the studies we have, private education will benefit from this formula allocation as much as, if not more than, the original House bill.

Mr. Speaker, I wish to repeat that this conference report represents with respect to institutional aid a great victory for the House of Representatives—and for higher education—for the concept of direct institutional aid will become a reality.

Turning to another area of the conference report of equal importance—student aid. I do not think that neither the House or Senate bills by themselves offered as much in this area as we have in the compromise bill. Three essential items are part of our agreement:

A new program of basic educational opportunity grants is authorized. And for the first time I believe we have authorized a program which will result in a realization of the often-stated congressional intent that no student be denied an opportunity for higher education, because of financial difficulties.

Second, we have fully protected the integrity of existing student assistance programs which have, as you well know, made such a significant contribution to American higher education through the years. Under the agreement, the National Defense Education Act student loan program, the college work-study program, and the educational opportunity grants cannot and will not suffer, because of the establishment of the new program of basic grants.

And I think we should view this area in another way. Let us talk about the people we are trying to help through our student assistance programs. One of the great faults with the Senate approach to the issue of student assistance was that it neglected the financial plight in which middle-income families find themselves in financing a higher education. The House approach was a balanced approach in that it strengthened and sharpened the focus on low-income students while at the same time expanding benefits for middle-income students. The Senate approach did not offer this balance. The agreement—because it contains the House expanding provisions of the insured loan program and because it builds into the Federal student assistance program basic and supplemental grants—provides for even a more balanced approach than existed in either bill if taken separately.

Another thing, Mr. Speaker, the conference report has been challenged on the basis that it does nothing for middle-income America. I have just mentioned the balanced approach in the House bill and the balanced approach in the Senate bill. Let us consider also that the report contains the Student Loan Marketing Association, which will greatly strengthen and expand the volume of lending under the insured loan program—that program which we have specifically designed for students from middle-income families. Again a continuing resolution will not address this problem. The volume of lending under the insured loan program will continue to be hindered, because of the liquidity problems if we only have a continuing resolution.

The conference report also retains the proposal in the House bill to liberalize the interest subsidy benefits under the insured loan program. Under current law and in the Senate bill, no student from an adjusted family income of $15,000 or more could receive an interest subsidy payment. Under the conference report, this will now be possible provided the student can demonstrate need.

In the third major area of controversy, I wish to stress that the conference agreement lived up to the letter of the House instruction with regard to the busing agreements. The conference report speaks for itself.

After hours of debate during which the House conferees rejected numerous Senate proposals to weaken and compromise the Broomfield amendment, we were able to maintain the House Broomfield amendment staying court ordered busing until all appeal rights are exhausted. The conference report differs in only one way, and that is that there is a period certain fixed for this prohibition. The date was set as January 1, 1974—a period 6 months longer than the administration's proposed moratorium period.

A slightly modified version of the Ashbrook amendment which prohibits the use of Federal funds for busing is contained in the conference report. As modified, Federal funds could be used only "on the express written voluntary request of appropriate local school officials." But even this permission is limited by further amendments which absolutely prohibit the use of Federal funds when the busing involves travel over distances which risk health or safety of children or impinge on the educational process. Still another limitation is provided under which there is an absolute prohibition on the use of Federal funds for busing when the educational opportunities provided would be inferior at the school to which the child would be transferred.

The conference report contains a provision prohibiting Federal activity with respect to busing which was covered in the Green amendment. The prohibition has been modified, however, to allow such activity when "constitutionally required." But once again even this exemption has been limited so as to absolutely bar such Federal activity if the proposed busing would impinge on the educational process or involve travel over distances which risk health or safety or if the educational opportunities would be inferior at the school to which the children would be transferred.

Bear in mind also, however, that in addition, the conference report contains the following related Senate provisions:

First. A provision granting a parent or guardian the right to reopen or intervene in court ordered busing if the time or distance of travel is so great as to risk the health of the child or significantly impinge on his or her educational process.

Second. A provision barring courts or officials of the United States from issuing any order seeking to achieve a racial balance in any school by requiring transportation of pupils or students from one school district to another. This provision applies to all schools and systems under all circumstances throughout the United States.

Third. A Senate provision reading "No provision of this act shall be construed to require the assignment or transportation of students or teachers in order to overcome racial imbalance."

There are other aspects of the conference report I should like to refer to. I believe an excellent decision was made in retaining those Senate provisions relative to the higher education title II program of assistance for college and university libraries for creating an entitlement for institutions of higher education for basic grants. This carries out, in my judgment, the original intent of the Congress. Likewise, I am pleased that the conference report contains certain House provisions regarding the eligibility requirements for participation in the title II program.

A question has arisen as to whether it is the intent of the committee and the Congress that independent research libraries such as the Henry E. Huntington Library of San Marino, Calif., the Newberry Library of Chicago, the American Antiquarian Society of Worcester, Mass., or the Historical Society of Pennsylvania in Philadelphia will be eligible for assistance under title II. The collections of the independent research libraries such as those listed above are of national importance, and their readers come from across the Nation. In that these research libraries serve colleges and universities in a cooperative fashion, it is my judgment that they will be eligible for assistance.

Other provisions of the conference report extend the expiring provisions

of the Vocational Education Act of 1963. The report contains a number of new initiatives including the Senate proposal for a new program of grants to establish and expand community colleges, but it retains also the House provision of assistance to States to plan and develop postsecondary occupational education.

With approval of the conference report the National Institute of Education will be established and there will be authorized a national study of the financing of postsecondary education. Many changes are provided with respect to the Federal involvement in graduate education. A whole new title on graduate education which contains the best elements of both the House and Senate provisions in this matter is contained in the conference report. The new title would consolidate many of the graduate and fellowship programs; it would extend without change in the new title the program of education for public service, and the improvement of graduate programs; and it would extend NDEA title IV graduate fellowships. The report also extends as separate programs title VI NDEA fellowships with emphasis on undergraduate language programs. Under this title, the International Education Act is extended without change, and a new program of fellowships for mineral resources and for persons from disadvantaged backgrounds is created.

The conference report also allows the Department of Health, Education, and Welfare to assure responsibility for the highly successful CLEO program which has been administered as a research and demonstration project by the Office of Economic Opportunity. In 3 years, this program has assisted approximately 1,000 students from disadvantaged backgrounds in gaining admission to law school. The proposed transfer is consistent with the desires of the administration and has the support of the American Bar Association and the Association of American Law Schools, both of which serve as cosponsors of the Council on Legal Education Opportunity.

Finally, an important and very necessary new program in support of Indian education is in the conference report. Support for consumer education, ethnic heritage studies, for the University of Guam and the College of the Virgin Islands, a study of youth camp safety, and the basis of sex are still other important aspects of the conference report.

Mr. Speaker, for the purpose of legislative history on this bill, I would like to comment briefly on a few items which might otherwise leave some confused about the intent of the conferees. Let me say that I have checked with Mr. QUIE, the ranking minority member, on each of these items and he agrees with me on the interpretation of these provisions.

The conference report creates an education division within the Department of Health, Education, and Welfare, headed by an assistant secretary to whom the Commissioner of Education and the Director of the National Institute of Education would report. This assistant secretary should be the chief spokesman for education at the Federal level. This bill makes him a line officer in HEW, rather than merely a staff person to the Secretary. The heads of both the Office of Education and the NIE will report to him.

The assistant secretary would have administrative responsibility under this bill for the Emergency School Aid Act. I would assume that he would be free to administer the program within his own office or delegate that authority to the Commissioner of Education. Similarly, the assistant secretary could administer other educational programs delegated to him by the Secretary.

Mr. Speaker, we want to make clear, however, that the conferees did not intend to create a vast bureaucratic superstructure. Rather, the assistant secretary should require only the staff necessary to enable him to fulfill his responsibilities. I would assume that much of the supporting staff of the Office of the Secretary could be of assistance to him. And, of course, the Office of Education and the NIE will have staffs able to carry out some of the policy decisions made by the assistant secretary.

Section 402(a) of the General Education Provisions Act creates the position of assistant secretary at a level IV. It is the intention of the conferees that this is to be a new position, in addition to the other level IV's the Department has now.

Mr. Speaker, another clarification for legislative history has to do with the funds paid to institutions under section 464(b) to make up for direct student loans canceled for service as a teacher or member of the Armed Forces. It is the intention of the conferees that any funds paid to institutions under this section be required to be deposited in the student loan fund established at the institution under part E of title IV. This money is to be used to make additional loans to students.

Some have asked about the meaning of the word "entitlement" as it is used in the basic education opportunity grant program. Section 411(b)(3)(B) spells out the payment provisions that are operative when not enough money is appropriated to pay all entitlements. A student's entitlement, for the purpose of that section, is to be determined solely by subtracting from $1,400 his expected family contribution.

Another item which needs clarification relates to the veterans' cost-of-instruction payments under section 420. It is our hope, of course, that the appropriations committees would appropriate the amount to which these institutions are entitled for educating veterans. But if there is not sufficient funds, those institutions would have to be satisfied with their pro rata share of the amount that was appropriated. The conference never intended, in the way this provision was finally agreed upon, that any institution would have any legal right against the Government for the full amount of its entitlement. There should be no question about that.

Finally, Mr. Speaker, I would like to point out one drafting error in part J of title I of the bill—which deals with community colleges and occupational education. In that part which deals with the establishment of a Bureau of Occupational and Adult Education, specifically in section 1071(a) which describes the responsibilities of the new bureau in the Office of Education, one word should be changed. On page 91 of the conference report, it says that the new bureau "shall be responsible for the administration of this title." The reference to "this title" is incorrect, as that would include administration of the new program for establishment and expansion of community colleges, which is not intended. The correct reference would be to "administration of part B of this title," which is the part dealing with occupational education.

The administration of part A of the title, dealing with the establishment and expansion of community colleges, is not intended to be a responsibility of the new Bureau of Occupational and Adult Education.

And Mr. Speaker, in providing general assistance grants it is understood that law students are to be included with graduate students under the definition of "pursuing a program of postbaccalaureate study."

My remarks covered the main thrust of the conference report. Other members of the conference committee will wish to take note of specific portions. The House should accept this conference report because the House conferees have brought back a report which carries out the will of the House. This is the most significant piece of higher education legislation ever presented to the Congress.

The SPEAKER. The time of the gentleman from Kentucky has expired.

(Mr. PERKINS asked and was given permission to revise and extend his remarks.)

POINT OF ORDER

Mr. TEAGUE of Texas. Mr. Speaker, I desire to make a point of order.

The SPEAKER. The gentleman will state his point of order.

Mr. TEAGUE of Texas. Mr. Speaker, the rules of the House limit the number of staff members who are allowed on the floor in a situation like this and I make the point of order that this committee has violated that rule of the House.

Mr. Speaker, the reason I make this point of order is to point up the fact that if the debate concerning this conference report requires 10 or 15 staff members to be on the floor to tell them what to say or what to do, then for sure they must not know what is in the bill.

The SPEAKER. The gentleman has made a point of order that the committee has violated the rules of the House in bringing an excessive number of committee staff members to the floor. The rule which governs situations of this kind is rule 32 which lists those who do have the privileges of the floor, and contains the clause: "and clerks of committees when business from their committee is under consideration; and it shall not be in order for the Speaker to entertain a request for the suspension of this rule."

This rule was adopted before the Reorganization Act of 1947 which provided for four professional staff members for each committee. The Chair must hold under the rule that no committee is entitled under the rules of the House—because the Chair cannot waive the rule—to more than four professional

so in both the positive sense and the negative sense.

Without doubt, the higher education assistance provisions represent a major achievement and deserve our enthusiastic support. They include a new program of basic educational opportunity grants to assure that no qualified student will be denied the resources necessary to attend a college or university.

This legislation also includes a desperately needed program of aid to institutions of higher education, to help them meet soaring costs which cannot be met through tuition alone. Particularly significant is the formula under which this aid is to be allocated, which emphasize assistance to institutions with high proportions of disadvantaged students. Having had a hand in working out this formula when the higher education bill was still in committee. I want to point out that this allocation was necessary to assure a fair apportionment of funds to developing institutions and those with high percentages of minority and disadvantaged students. These institutions are perhaps the most in need and without this formula, would have been among the lowest in funding priorities.

These amendments also include the Emergency School Aid Act, a $2 billion program to assist school districts desegregating as a matter of local choice or under court order, in providing quality, integrated education to all students. This bill was before the General Subcommittee on Education, on which I serve, for many months and I am gratified that the final version includes the special set-aside for bilingual education programs which I succeeded in having incorporated in the House version of this bill.

Another very significant provision establishes the National Institute of Education, modeled on the National Institutes of Health, to provide the coordinated educational research and development so long absent from our national education effort. It is heartbreaking to see millions of American children still receiving inadequate educations, despite the tremendous increase in expenditures at every level and despite the many new techniques and procedures which have been developed in recent years. It is to be hoped that the National Institute of Education will undertake the broad research and demonstration program needed to assure that our education dollars are being spent effectively and that those who still are denied the benefits of our progress will be guaranteed the quality education so essential to a decent life.

Other highly significant provisions of this conference report include expansion of existing aid programs for postsecondary education, bars to discrimination on the basis of sex in education programs, establishment of a National Student Loan Marketing Association to support the guranteed student loan program and creation for the first time of an ethnic heritage studies program.

It is fair to say this is the single most important education measure ever before the Congress. And it is tragic that it comes to us mortally encumbered with three amendments designed to cripple the capacity of the Federal courts and agencies to remedy racially discriminatory school segregation. These amendments, and primarily the Broomfield amendment, make it impossible for me to support the conference report for they represent a retreat from the national commitment to nondiscrimination embodied in the Civil Rights Act of 1964 and a serious threat to the authority of the courts.

The intent of the Broomfield amendment seems quite clear. It is designed to postpone all orders, in all cases involving transportation of children to achieve school desegregation. If this intent is given effect, the amendment will halt 14th amendment enforcement for up to 18 months—6 months longer than President Nixon's proposed moratorium.

It is a tragic irony that we are taking this legislation up just after the 18th anniversary of the historic Brown against Board of Education decision which ruled that "separate but equal" is not at all equal. The Broomfield amendment attacks the principles behind that decision and the mandate established in the 1969 Alexander against Holmes County, in which the Supreme Court declared that dual school systems must be terminated at once.

It has been suggested repeatedly that the Broomfield amendment is so poorly drafted and so clearly in opposition to the trend of court rulings that it will be found unconstitutional, and that, therefore, we should vote for the conference report to salvage all that is good in the bill. I think it would be dangerous and mistaken for any Member to vote for this conference report hoping that the Court will bail us out. In the first place, it would be foolhardy to attempt to anticipate the Supreme Court, particularly in view of recent changes in membership and the ideological shift which apparently has taken place. And in the second place, we all have taken an oath of office to preserve the integrity of the Constitution.

I think the distinguished Senator from Minnesota (Mr. MONDALE) put the issue in its proper perspective during Senate debate on this conference report when he said:

> I think most of us would agree that if someone offered us a bargain—to reduce our freedom of speech, our right to assemble, or our right to practice our religion in exchange for another 10 miles of super highways—we would all say, "we cannot exchange our freedoms for such considerations." The freedoms found in the Constitution, the freedoms fundamental to American life, are in a real sense noncompromisable. They are on a different level, a different plateau, and bear a different value from other disputes.

Mr. Speaker, I urge rejection of the conference report. There is still time to provide assistance to higher education, but we should not do so under the blackmail threat which attacks so basic a principle of our society and our system of laws.

Mr. DONOHUE. Mr. Speaker, from the continued debate here, it is rather obvious that practically every Member of this House is approaching the legislative determination of this conference report on S. 659, the Education Amendments of 1972, with mixed and troubled emotions.

It is equally clear, whatever misgivings many of us may have about any particular section of the report, that the educational benefit essence of the bill has been hailed and endorsed by an impressive array of professional organizations and authorities as comprising perhaps the most important single educational advance ever placed before the Congress.

In summary, among many other projections, the measure contains an urgently needed program of aid to institutions of higher education to help overcome the accelerating costs of post secondary education that cannot be met by tuition payments alone; it establishes a new program of basic educational opportunity grants in order to try and insure that no qualified student shall be deprived of his ambition to attend a higher education institution; it provides the Emergency School Aid Act, a $2 billion program to assist school districts, desegregating as a matter of local choice or under legal requirement, in offering high quality integrated education to all students; and, it creates a National Institute of Education, modeled after the National Institutes for Health, to initiate the coordinated educational research and development activity that is so urgently needed to stimulate creativity in modern higher education.

There are also, within the bill, provisions to expand existing programs of assistance to post secondary education, to establish protection against discrimination in education programs on the basis of sex, to set up a National Student Loan Marketing Association to strengthen the guaranteed student loan program and to initiate, for the first time, ethnic heritage study centers in local communities.

Mr. Speaker, all of the educational improvements and benefits embodied in and projected by this bill, involving some $18.5 billion in authorizations, truly represent the most impressive and most promising higher educational progress ever considered by the Congress. Undoubtedly our higher education structure is in nearly desperate need for the timely and sustaining support that is contained in this bill. While there are some aspects, as in most every other measure, that many of us might wish were not included in it, that may well have no legal effect whatsoever, but which we can not, under the procedure being followed, separate from the bill, I am impelled, on overall balance, to accept the unique educational substance of this proposal, in the national interest.

Mr. DERWINSKI. Mr. Speaker, it is unfortunate that this higher education bill was subject to the further complications inherent in the question of court-ordered busing. My position is based on the failure of the conferees to produce language which, in my judgment, would effectively terminate court-ordered busing for racial quota purposes. Of special concern to me is the fact that a number of school districts in my congressional district, who are affected by either court-ordered or administrative busing plans,

staff members and the clerk, a total of five.

Mr. TEAGUE of Texas. Mr. Speaker, would the Speaker request the staff beyond that number to leave the floor?

Mr. PERKINS. Mr. Speaker, let me say something, I certainly want to comply with the rules of the House, but the ranking members of the subcommittee requested the staff and that has always been the custom. And I certainly hope in the future that all committees will abide by the rules of the House, because it would be the purpose of the Committee on Education and Labor to abide by the rules of the House in the future.

I regret that the gentleman from Texas who opposes the bill has made the point of order of this kind, because it certainly would never have been done by the gentleman from Kentucky.

The SPEAKER. The Chair would like to add further that the rule explicitly prohibits the Chair from making an exception to the rules. If however procedures have changed to the point where every subcommittee wishes to be represented, then the rules of the House should be changed so that the Chair can keep within the rules of the House and to permit other members of the staff to come on the floor in excess of this present number.

For what purpose does the gentleman from Texas (Mr. TEAGUE) rise?

Mr. TEAGUE of Texas. Mr. Speaker, the gentleman from Texas was merely trying to make the point that nobody on this floor knows what is in this bill—and it took six pages to explain the conference report.

The SPEAKER. For what purpose does the gentleman from Louisiana (Mr. WAGGONNER) rise?

Mr. WAGGONNER. Mr. Speaker, has all time expired?

The SPEAKER. No, it has not. Let the Chair state that the gentleman from Minnesota has 4 minutes remaining and the gentleman from Kentucky has 3½ minutes remaining.

Mr. PERKINS. Mr. Speaker, I yield 3 minutes to the distinguished majority leader, the gentleman from Louisiana (Mr. BOGGS).

Mr. BOGGS. Mr. Speaker, I know that on both sides of this issue this afternoon there are many Members who are greatly troubled. They find Members with irreconcilable views coming to the same conclusion. That would indicate that probably the easy vote here today would be a "no" vote because if one voted "no," one could say that he was pleasing both sides on this highly emotional and difficult issue.

I wonder though if that is the reasonable and logical thing to do here this afternoon.

This bill extends the five vital existing higher education programs for an additional 3 years.

In addition to that, it creates at least five new programs which are the result of many years of study and effort. They are:

The so-called new basic educational opportunity grants.

The program of direct general assistance to the colleges.

The basic grants to the students.

A new program designed to help the States design postsecondary education programs.

The new program for community colleges.

The new National Institute of Education.

These are vital to the continuation of higher education in this country.

But the vote here today comes not on the basic issue but on the hope of rejecting the conference report and passing a preferential motion to extend the existing programs and substitute different language for the busing provision.

Mr. Speaker, I just do not think that that can come to pass. To begin with, the other body by a lopsided vote—I think there were only 13 votes in the negative—the other body has already adopted this conference report.

I cannot believe at this late stage that the Senate would go back to another conference. That would mean that our only recourse would be new legislation.

Mr. Speaker, the education conference report on which the House will vote today is one of the most significant pieces of legislation to come before this Congress.

The report extends, for an additional 3 years, programs that have proven their worth in helping to build the American system of higher education, including:

The national defense education loan program, under which over 5 million students have obtained low-interest loans over the past 13 years.

The Higher Education Facilities Act, which since its inception has played a major role in the great expansion of college and university facilities over the past decade.

The educational opportunity grant and college work-study programs, which provide financial assistance to needy students for whom a college education would otherwise be out of reach.

The guaranteed student loan program, under which last year alone, 1,080,739 million students obtained more than $1 billion in loans from banks and other lending institutions under the auspices of a Federal guarantee of the principal and interest; and

The so-called categorical aid programs, under which Federal funds are made available to colleges and universities for specific purpose activities, including library support, teacher training, and facilities renovation, as well as language and area studies and other specific categories of academic pursuit.

Mr. Speaker, these programs have served our Nation well and deserve to be continued.

But there are other, new programs that will be established under the provisions of the conference report, which will make it a landmark in Federal support for higher education.

Two of these programs are particularly significant:

A new system of "Basic Educational Opportunity Grants," will be established, under which every American college student, from middle-income as well as low-income families, will be entitled to receive an annual grant of $1,400, less that amount his or her family can reasonably be expected to contribute to his or her education.

The new program of direct, general assistance to colleges and universities will be inaugurated, under which each institution will receive a payment based on the number of federally assisted undergraduate students it enrolls, the amount of aid they receive, and the number of graduate students it enrolls. These payments may be used by each college and university as it sees fit—[illegible]eral "strings," other than a requirement that the money not be used for sectarian purposes, are attached.

These two innovations—basic grants and direct assistance to colleges and universities—constitute the major new programs established under the conference report, but there are several other innovations agreed to by the conferees that also deserve mention:

A new program to help the States design, establish, and operate postsecondary occupational education programs is created that will answer a long neglected need in our system of postsecondary education—the vocational training of the young man and woman who does not desire to pursue an academic degree;

A new program of startup and expansion grants for community colleges, the fastest growing segment of our higher education system, in terms of both size and popularity; and

The establishment of a National Institute of Education, patterned after the National Institutes of Health, which will conduct, support, and disseminate the products of research at all levels of education, from preschool through the graduate school.

In the list of programs I have mentioned there may be found proposals of this administration as well as the previous one, of the House as well as the Senate, of Republican as well as the Democratic Party.

The measure before us thus constitutes not only a rational and comprehensive response to the needs of American higher education, but a bipartisan one as well.

Mr Speaker, this legislation should command the support of every Member of the House.

It is the product of 2 years work in this as well as the other body.

Our 6 million college students and the institutions they attend can wait no longer for Congress to take action in this important area.

Let us examine that question of new legislation for a moment. Here we are in the second week of June. We are a month away from the first great national political convention and 2 months away from the second great political convention. We have about 6 active legislative weeks between now and that second national convention.

And then the fall campaign will be here—therefore, I say to you [illegible] say to all of you—if you want an education bill, I hope you will think a long time before you vote "No" on this conference report.

92D CONGRESS
2d Session

SENATE

EXECUTIVE REPT.
No. 92-39

NOMINATION OF SIDNEY P. MARLAND, JR.

OCTOBER 14, 1972.—Ordered to be printed

Mr. WILLIAMS, from the Committee on Labor and Public Welfare, submitted the following

REPORT

together with

INDIVIDUAL VIEWS

[To accompany the nomination of Sidney P. Marland, Jr.]

The Committee on Labor and Public Welfare, to which was referred the nomination of Sidney P. Marland, Jr., of New York to be Assistant Secretary for Education in the Department of Health, Education, and Welfare, having considered the same, report favorably thereon with the recommendation that the nomination be confirmed.

This report follows 2 days of hearings during which the committee examined the nominee's qualifications and credentials, as well as the legal authority of the position of Assistant Secretary for Education.

The nominee is presently Commissioner of Education. The Senate confirmed his nomination for that position in 1970. His biographical sketch, as submitted to the committee by the nominee, follows:

BIOGRAPHICAL SKETCH OF SIDNEY P. MARLAND, JR., U.S. COMMISSIONER OF EDUCATION

Sidney P. Marland, Jr., has been U.S. Commissioner of Education since December 17, 1970. As chief education officer of the Federal Government, he is responsible for the effective operation of the Office of Education. With an annual budget of more than $5 billion and a staff of approximately 3,000, he administers over 100 programs of support to education affecting nearly all of the Nation's 17,000 school districts and 2,500 colleges and universities.

Before being appointed Commissioner, Dr. Marland served more than 20 years as a school administrator. He was superintendent of schools in Darien, Conn., from 1948 to 1956, then in Winnetka, Ill., until 1963 and in Pittsburgh, Pa., until 1968. He was president of the Institute for Educational Development, in New York City, from 1968 until he became Commissioner.

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Dr. Marland was born in Danielson, Conn. He was awarded his BA by the University of Connecticut in 1936, his MA by the same university in 1950, and his Ph. D. by New York University in 1955. He holds honorary degrees from the University of Pittsburgh, New York University, Denison University, Northwestern University, and Ripon College.

Dr. Marland began his career as a teacher at William Hall High School in West Hartford, Conn., where he taught English from 1938 to 1941.

In 1941 he went into military service. As an infantry colonel, he participated in five campaigns in the Pacific and was awarded the Distinguished Service Cross, the Legion of Merit, and the Bronze Star. He also served as Director of Research, Pacific Military Intelligence, on the Army General Staff in Washington.

Dr. Marland is a member of the United Nations Association, the American Association of School Administrators, and the Visiting Committee of the Harvard Board of Overseers. He is past president of the Winnetka Izaak Walton League, the Darien Library Association, and the Greater Cities School Improvement Council. With Carleton W. Washburne, he is coauthor of "Winnetka: The History and Significance of an Educational Experiment." He has also written various monographs, book contributions, and journal articles.

Dr. Marland married Virginia Partridge in 1940. They have three children: Sidney P. Marland III, Pamela (Mrs. Maurice Izard), and Judith.

BACKGROUND

The position of Assistant Secretary of Health, Education, and Welfare for Education, and the formation of the Education Division of the Department of Health, Education, and Welfare which is headed by the Assistant Secretary, were established by sections 401 and 402 of the General Education Provisions Act as amended by section 301 of the Education Amendments of 1972, Public Law 92-318. Dr. Marland is the first nominee to this position. With that in mind, the Committee on Labor and Public Welfare has given careful consideration not only to the qualifications of Dr. Marland, but also to the conception of the nominee and the Department of Health, Education, and Welfare regarding the role and scope of responsibility of the Assistant Secretary with respect to Federal education programs and policy.

FUNCTIONS AND DUTIES OF THE OFFICE OF THE ASSISTANT SECRETARY

During the course of the hearings on this nomination, question was raised as to the functions and duties of the Assistant Secretary for Education. Therefore, the committee examined the plans and intentions of the nominee in light of the law relating to the authority of the new position and the legislative history of the provisions of law creating that position.

The following is a staff memorandum drawn up for the committee in considering this question:

STAFF MEMORANDUM REGARDING THE AUTHORITY OF THE ASSISTANT SECRETARY WITH RESPECT TO THE OFFICE OF EDUCATION AND THE NATIONAL INSTITUTE OF EDUCATION AND PROGRAMS ADMINISTERED BY THOSE AGENCIES

I. Statutory Provisions[1]

[1] Except as otherwise noted, citations are to sections of the General Education Provisions Act, as added by sec. 301(a) of P.L. 92-318, unless otherwise indicated.

A. PART A—EDUCATION DIVISION OF THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

1. The Education Division:

SEC. 401. There shall be, within the Department of Health, Education, and Welfare, an Education Division which shall be composed of the Office of Education and the National Institute of Education, and shall be headed by the Assistant Secretary for Education.

2. Assistant Secretary for Education:

SEC. 402. (a) There shall be in the Department of Health, Education, and Welfare an Assistant Secretary for Education, who shall be appointed by the President by and with the advice and consent of the Senate. The Assistant Secretary for Education shall be compensated at the rate specified for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(b) The Assistant Secretary shall be the principal officer in the Department to whom the Secretary shall assign responsibility for the direction and supervision of the Education Division. He shall not serve as Commissioner of Education or as Director of the National Institute of Education on either a temporary or permanent basis.

Section 704(a) of the Emergency School Aid Act (title VII of P.L. 92-318) vests authority for administration of that particular program in the Assistant Secretary for Education. It provides: "The Assistant Secretary shall, in accordance with the provisions of this title, carry out a program designed to achieve the purpose set forth in section 702(b)."

B. THE OFFICE OF EDUCATION

1. Section 403:

"(b)(1) The management of the Office of Education shall, subject to the direction and supervision of the Secretary, be entrusted to a Commissioner of Education, who shall be appointed by the President by and with the advice and consent of the Senate, and who shall serve at the pleasure of the President."

2. (Specific statutes vest authority for the administration of most education programs directly in the Commissioner of Education.)

C. NATIONAL INSTITUTE OF EDUCATION

Section 405:

1. (b)(1) In order to carry out the policy set forth in subsection (a), there is established the National Institute of Education (hereinafter referred to as the "Institute") which shall consist of a National Council on Educational Research (referred to in this section as the "Council") and a Director of the Institute (hereinafter referred to as the "Director"). The Institute shall have only such authority as may be vested therein by this section.

* * * * * * *

2. (3) The Council shall—

(A) establish general policies for, and review the conduct of, the Institute;

(B) advise the Assistant Secretary and the Director of the Institute on development of programs to be carried out by the Institute;

(C) present to the Assistant Secretary and the Director such recommendations as it may deem appropriate for the strengthening of educational research, the improvement of methods of collecting and disseminating the findings of educational research and of insuring the implementation of educational renewal and reform based upon the findings of educational research;

(D) conduct such studies as may be necessary to fulfill its functions under this section;

(E) prepare an annual report to the Assistant Secretary on the current status and needs of educational research in the United States;

(F) submit an annual report to the President on the activities of the Institute, and on education and educational research in general, (i) which shall include such recommendations and comments as the Council may deem appropriate, and (ii) shall be submitted to the Congress not later than March 31 of each year;

* * * * * * *

3. (d)(1) The Director of the Institute shall be appointed by the President, by and with the advice and consent of the Senate, and shall serve at the pleasure of the President. The Director shall be compensated at the rate provided for level V of the Executive Schedule under section 5316 of title 5, United States Code, and shall perform such duties and exercise such powers and authorities as the Council, subject to the general supervision of the Assistant Secretary, may prescribe. The Director shall be responsible to the Assistant Secretary and shall report to the Secretary through the Assistant Secretary and not to or through any other officer of the Department of Health, Education, and Welfare. The Director shall not delegate any of his functions to any other officer who is not directly responsible to him.

II. Legislative History of Statutory Provisions

The position of Assistant Secretary of Health, Education, and Welfare for Education was created by section 402 of the General Education Provisions Act as added by section 301(a)(2) of the Education Amendments of 1972. The provision in the law is a modification of a provision in the Senate version of S. 659.

A. HOUSE AND SENATE BILLS

1. In the Senate: Section 301 of the Senate version of S. 659, which became law with the short title of the Education Amendments of 1972, would have created an Education Division in the Department of Health, Education, and Welfare headed by a newly-created Commissioner of Education and composed of the Office of Education, the National Institute of Education, and the National Foundation for Postsecondary Education.

Specifically, the Senate bill made provision for the following:

(*a*) In lieu of the then current position of Commissioner of Education, a new position of Commissioner of Education was created as head of the Education Division.

(*b*) The Senate bill provided a top-level staff consisting of a Deputy Commissioner plus 6 additional GS–18 supergrades to assist the Commissioner in his new position.

(*c*) Section 301(b)(3) of the Senate bill transferred all of the functions of the old Commissioner as head of the Office of Education to the new Commissioner as head of the Education Division.

(*d*) With respect to the National Institute of Education, the Senate bill, in order to vest policy formulation authority in the National Institute, as opposed to the Commissioner, expressly provided that the National Council of Educational Research should make policy for the National Institute of Education.

2. In the House: The House bill created a National Institute of Education as an independent agency within the Department of Health, Education, and Welfare, and expressly forbade the Director of the NIE from reporting through the Commissioner of Education.

There was no provision for an Education Division or a Foundation for Postsecondary Education in the House bill.

3. Former law: Under the laws in effect at the time of the enactment of the Education Amendments of 1972, in all cases, except a few minor programs, policy formulation authority for education programs was vested in the Commissioner of Education, not the Secretary of HEW. Historically, education programs, contrary to most other HEW programs, have been vested directly in the Commissioner of Education rather than the Secretary of HEW. Under the

Senate bill, all such authority would have been transferred to the head of the new Education Division.[2]

B. THE CONFERENCE AGREEMENT

The House conferees would not accept the Senate version of S. 659; therefore, a compromise was negotiated. The compromise was designed to create a head of the Education Division which would take on the public responsibilities of the Office of Education and the National Institute of Education, leaving policy and administrative responsibility for the programs carried out by those agencies, with those agencies.

1. The title of "Commissioner of Education" for the head of the new Education Division was not agreed to; instead a position entitled "Assistant Secretary" was established for this purpose.

2. The Senate's proposed new positions for the Education Division (the Deputy and the six supergrades) were deleted.

3. The Senate provision transferring the functions of the Office of Education to the new Education Division was deleted.

4. The Senate provision expressly vesting overall policy-making authority for NIE in the National Council on Educational Research was retained.

From the changes in the Senate bill, it is obvious that the conferees intended to, and did, refuse to give to the Assistant Secretary the policy-making or other functions of the Office of Education with respect to education programs.

Moreover, by contrast, the conferees did want the Assistant Secretary to have policy authority in one instance—the Emergency School Aid Program. In that instance, the law expressly vested the primary authority in the Assistant Secretary. This affirmative action, taken with the negative action of refusing to include the transfer of authority for the Office of Education to the Education Division, makes it quite clear that the conferees intended that any authority in the Assistant Secretary be granted explicitly.

C. THE OFFICE OF THE ASSISTANT SECRETARY AS PROPOSED BY THE NOMINEE

Statements of the nominee and other materials available to the Committee indicate that the Office of the Assistant Secretary is planned to have the following authority:

1. Control over policy, operation and evaluation plans, budget, and legislation of the Office of Education and the National Institute of Education;
2. Control over management and personnel for the two agencies;
3. Monitoring the legislative and program priorities of the outside interest groups;
4. Managing advisory committees;
5. Public-speaking and media relations; and
6. Control over correspondence and policy development issues.

In order to carry out these tasks, the nominee intends to employ a staff of 99 persons, 57 professionals and 42 clerical positions, including two Deputy Assistant Secretaries. Since the conference refused to accept the Senate provision for the one Deputy Commissioner and the supergrades, it would seem that the

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[2] See, e.g., Section 301 of the Elementary and Education Act of 1965 which provides that: "The Commissioner shall administer this Act and he may make such regulations and perform such other functions as he finds necessary to carry out the provisions of this Act." Education statutes also commonly provide that the Commissioner shall annually report directly to the Congress. For example, Section 1001 of the National Defense Education Act, requires that the Commissioner "shall include in his annual report to the Congress a full report of the activities of the Office of Education under this Act, including recommendations for needed revisions in the provisions thereof. Similarly, Section 412 of P.L. 91-230 requires the Commissioner to report annually to Congress on "the condition of education in the nation," including "such facts and recommendations as will serve the purpose for which the Office of Education is established."

A noteworthy exception to the above-described general practice is the Emergency School Aid Act (title VII of P.L. 92-318) which as previously indicated, vests authority for administration of the program directly in the Assistant Secretary for Education—the only program vested directly in that office.

appointment of two Deputy Assistant Secretaries with a staff of 99 would be contrary to the intent of the conference agreement.

The nominee expects 43 of these 99 to be assigned to carry out the functions listed above as (1) and (2). It is these two functions and the proposed staff for performing them which are at the root of the disagreement over the role of the Assistant Secretary. They would represent a new level of bureaucracy in education, and would amount to too great an assumption of supervisto,. over the National Institute of Education and the Office of Education, which was not intended by the conferees.

In view of the foregoing, the committee believes that the plans of the nominee appear inconsistent with the legislative intent in the creation of the position of Assistant Secretary. After considering those plans and the relevant law and legislative history, the committee concluded that on two major respects, those plans should be altered:

(1) The Assistant Secretary should take greater responsibility for the administration of the Emergency School Aid Act. Since the administrative authority for that program is vested by law directly in the Assistant Secretary and since that program is unique in that respect, it is quite clear that the Congress intended the Assistant Secretary to have a very special responsibility for the Emergency School Aid Act.

(2) The number of positions related to policy development and implementation should be limited to the number necessary to provide general guidance for the policymaking and implementation activities carried out in the Office of Education and the National Institute of Education, and to advise those agencies with regard to coordinating their activities. With such changes in the organization of the Assistant Secretary, it would appear that 55 positions in his office would be sufficient to carry out his intended functions.

In connection with the foregoing conclusions, the committee believes it important to stress that the role of the Assistant Secretary is necessarily limited by the following controlling considerations. One is the fact that in establishing the new Institute the conference agreement not only provided for a Director with "full responsibility for specific program policies and for the management of the Institute," but also for an "independent Council," "responsible for general policies relating to the Institute's powers, duties and authorities." The Council, according to the conferees, is to "establish overall policies, leaving to the Director decisions about programs, initiatives, and funding." (Senate Report No. 92-798, p. 203).

The action of the conferees in thus providing fully and expressly for a dual structure to perform all policymaking and implementing functions for the Institute negates any inference that the Assistant Secretary was intended to represent still an additional layer which would duplicate or displace these specifically assigned functions.

With respect to the Office of Education, it is clear that complete responsibility for all aspects of implementation and administration of almost every existing educational program has been wholly vested in the Commissioner of Education by express statutory terms, including even such long-range policy formulating responsibility as is reflected in the statutory mandates to the Commissioner to report his recommendations directly to Congress (see footnote 2, supra). It is most significant in this regard that the conferees specifically struck

from the Senate version of S. 659 the provision which would have transferred all such functions to the head of the new Devision of Education.

Since there was, therefore, no change in existing law with respect to the existing policymaking or other functions of the Commissioner of Education, the committee believes that insofar as the operation of the Office of Education as an agency is concerned, the Assistant Secretary for Education has the authority which reposed in the Secretary before enactment of Public Law 92-318, to the extent the Secretary chooses to delegate this authority to the Assistant Secretary, but there was no intention to create a new structure of bureaucracy which would diminish the authority, responsibilities or functions of the Commissioner. This conclusion is confirmed by the statement of Senater Pell, chairman of the Senate conferees, explaining the conference agreement prior to its adoption by the Senate:

> The primary responsibility for education programs continues to be vested in the Commissioner of Education. Nor is there any intent on the part of the conferees to elevate any responsibilities now carried on in the Office of Education to the Assistant Secretary. (83 Congressional Record p. S8281, daily edition.)

INDIVIDUAL VIEWS OF MR. DOMINICK

I concur in the recommendation that Dr. Sidney P. Marland, Jr. be confirmed as Assistant Secretary of Health, Education, and Welfare for Education. I do, however, have differing views as to the duties of that office; hence, these individual views.

DETERMINATION OF CONGRESSIONAL INTENT

I neither view the Assistant Secretary for Education position as that of a latter-day "Svengali" exercising complete control over Federal education policy and administration nor as a "Throttlebottom", a ceremonial factotum with no stature of his own. The role of the Assistant Secretary falls between these two extremes.

First and foremost, we must look to the actual language of the statute, for it is the law, passed by both houses of the Congress and approved by the President to which the courts and the administration will look.

Complementing the statute only where it needs interpretation is congressional intent as indicated by, first, the conference report and, second, by statements of supporters in debate, prior to final passage. Postenactment commentaries by congressional participants in conference negotiations, while interesting, cannot establish a contradictory intent.

One, then, must look to the law, reports, and debates, in that order, to determine what are the duties of the Assistant Secretary of Health, Education, and Welfare for Education. There follows a memorandum of elucidation:

MATERIALS ON THE AUTHORITY OF THE ASSISTANT SECRETARY WITH RESPECT TO THE OFFICE OF EDUCATION AND THE NATIONAL INSTITUTE OF EDUCATION[1]

I. STATUTORY PROVISIONS[2]

A. PART A—EDUCATION DIVISION OF THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

1. The Education Division:

Section 401. There shall be, within the Department of Health, Education, and Welfare, an *Education Division* which shall be *composed of* the *Office of Education and* the *National Institute of Education, and* shall be *headed by* the *Assistant Secretary for Education.*

---

[1] Emphasis supplied in all cases.
[2] Citations are to sections of the General Education Provisions Act, as added by Sec. 301(a) of Public Law 92-318, unless otherwise indicated.

2. Assistant Secretary for Education:

Section 402. (a) There shall be in the Department of Health, Education, and Welfare an Assistant Secretary for Education, who shall be appointed by the President by and with the advice and consent of the Senate. The Assistant Secretary for Education shall be compensated at the rate specified for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(b) The *Assistant Secretary* shall be the principal officer in the Department *to whom the Secretary shall assign responsibility for* the *direction and supervision of the Education Division*. He shall not serve as Commissioner of Education or as Director of the National Institute of Education on either a temporary or permanent basis.

B. THE OFFICE OF EDUCATION

1. Section 403:

"(b) (1) The management of the Office of Education, shall, *subject to the direction and supervision of the Secretary*, be entrusted to a Commissioner of Education, who shall be appointed by the President by and with the advice and consent of the Senate, and who shall serve at the pleasure of the President."

2. [Specific statutes vest authority for program administration in the Commissioner of Education (*e.g.*, title I of ESEA, § 102, 20 U.S.C. 241b ("The Commissioner shall, in accordance with the provisions of [title I] make payments to State educational agencies * * *")).]

C. NATIONAL INSTITUTE OF EDUCATION

Section 405:

1. (b) (1) In order to carry out the policy set forth in subsection (a), there is established the National Institute of Education (hereinafter referred to as the "Institute") which shall consist of a National Council on Educational Research (referred to in this section as the "Council") and a Director of the Institute (hereinafter referred to as the "Director"). The Institute shall have only such authority as may be vested therein by this section.

2. (3) The *Council shall*—

(A) *establish general policies for, and review the conduct of, the Institute;*

(B) *advise the Assistant Secretary* and the Director of the Institute on development of programs to be carried out by the Institute;

(C) *present to the Assistant Secretary* and the Director such *recommendations* as it may deem appropriate for the strengthening of educational research, the improvement of methods of collecting and disseminating the findings of educational research and of insuring the implementation of educational renewal and reform based upon the findings of educational research;

(D) conduct such studies as may be necessary to fulfill its functions under this section;

(E) *prepare an annual report to the Assistant Secretary* on the current status and needs of educational research in the United States;

3. (d)(1) *The Director of the Institute* shall be appointed by the President, by and with the advice and consent of the Senate, and shall serve at the pleasure of the President. The Director shall be compensated at the rate provided for level V of the Executive Schedule under section 5316 of title 5, United States Code, and *shall perform such duties and exercise such powers and authorities as the Council, subject to the general supervision of the Assistant Secretary, may prescribe. The Director shall be responsible to the Assistant Secretary and shall report to the Secretary through the Assistant Secretary and not to or through any other officer of the Department of Health, Education, and Welfare.* The Director shall not delegate any of his functions to any other officer who is not directly responsible to him.

D. EMERGENCY SCHOOL AID ACT

D. [Emergency School Aid Act (title VII of P.L. 92–318) vests authority for administration of the program in the Assistant Secretary for Education: (Section 704(a) "The Assistant Secretary shall * * * carry out a program designed to achieve the purpose set forth section 702(b)").]

II. Legislative History

A. CONFERENCE REPORT

Education Division: The Senate amendment added a new part A to the General Education Provisions Act which established an Education Division within the Department of Health, Education, and Welfare and under the Commissioner of Education.

The Division was to be composed of the Office of Education, a National Foundation for Postsecondary Education, and the National Institute of Education. The House amendment had no comparable provision. The House recedes with an amendment to exclude the Senate provision for a National Foundation for Postsecondary Education and an amendment to give the head of such *Division* the title of Assistant Secretary for Education. The amendment stipulates that the Assistant Secretary may not serve as Commissioner of Education or as Director of the National Institute of Education. * * * (Senate Report No. 798, 92d Cong., second sess. 201–02 (1972).)

Organization of the National Institute of Education: The Senate amendment provided that the National Institute of Education shall consist of a Director and a National Council on Educational Research responsible for general policies with respect to the powers, duties, and authorities of the Institute. The House amendment established a position of Director and a council which is advisory in nature. The House recedes.

The conference agreement adopted the Senate amendment which established a National Council on Education Research responsible for general policies related to the Institute's powers, duties and authorities. The conferees believe that both an independent Council with decision-making authority and a strong Directorship are needed to lead a vigorous Institute. It is intended that the Director of NIE have full responsibility for specific program policies and for the management of

the Institute. The Council would establish overall policies leaving to the Director decisions about programs, initiatives, and funding. * * * *Id.* at 203.

Reporting relationships of the National Institute of Education Director: The Senate amendment provided that the National Institute of Education shall be subject to general regulations of the Commissioner promulgated for its management. The House amendment provided that the Director shall perform such duties as are prescribed by the Secretary of Health, Education, and Welfare and shall be responsible to the Secretary, and not to or through any other officer of Health, Education, and Welfare. The House amendment further prohibited the Director of the National Institute of Education *from delegating any of his functions to any other officer who is not directly responsible to him.* Senate recedes with conforming amendments, *providing that the Director will report to the Assistant Secretary for Education.* (Senate Report No. 798, 92d Cong., second sess. 203 (1972).

B. STATEMENT OF REPRESENTATIVE PERKINS

Mr. Speaker, for the purpose of legislative history on this bill, I would like to comment briefly on a few items which might otherwise leave some confused about the intent of the conferees. Let me say that I have checked with Mr. Quie, the ranking minority member, on each of these items and he agrees with me on the interpretation of these provisions.

The conference report creates an education division within the Department of Health, Education, and Welfare, headed by an *assistant secretary to whom the Commissioner of Education and the Director of the National Institute of Education would report.* This assistant secretary should be the chief spokesman for education at the Federal level. *This bill makes him a line officer in HEW, rather than merely a staff person to the Secretary. The heads of both the Office of Education and the NIE will report to him.*

The assistant secretary would have administrative responsibility under this bill for the Emergency School Aid Act. I would assume that he would be free to administer the program within his own office or delegate that authority to the Commissioner of Education. *Similarly, the assistant secretary could administer other educational programs delegated to him by the Secretary.*

Mr. Speaker, we want to make clear, however, that the conferees did not intend to create a vast bureaucratic superstructure. Rather, the assistant secretary should require only the staff necessary to enable him to fulfill his responsibilities. I would assume that much of the supporting staff of the Office of the Secretary could be of assistance to him. *And, of course, the Office of Education and the NIE will have staffs able to carry out some of the policy decisions made by the assistant secretary.* (118 Congressional Record H5424 (daily edition, June 8, 1972).)

C. STATEMENT OF SENATOR PELL

1. Together with this, we have created a new Division of Education within HEW, somewhat overhauled the Office of Education, and

established an Institute of Education, *seeking to make easier, the implementation of the bill of the Senator from Connecticut* (Mr. Ribicoff), *to establish a Department of Education and Culture. By overhauling the basic law, we have made the spinoff of the division easier to accomplish.* (118 Congressional Record S8374 (daily edition, May 24, 1972).)

2. Still seeking to support innovation, S. 659 contains, in title III and other titles, *what is in effect a complete restructuring of the Federal education bureaucracy.* The bill establishes within the Department of Health, Education, and Welfare an Education Division headed by an Assistant Secretary of HEW for Education. Within the Education Division there are two agencies: the Office of Education headed by the Commissioner of Education, and the National Institute of Education headed by the Director of the Institute. The National Institute of Education is also under the governance of the National Council on Education Research, which is charged with the responsibility for setting general policy for the Institute. *That National Council also has an advisory function for the Department of Health, Education, and Welfare with respect to education.*

It is not intended that the newly established Assistant Secretary have any administrative responsibilities except for those related to the emergency school assistance program. The primary responsibility for education programs continues to be vested in the Commissioner of Education. *Nor is there any intention on the part of the conferees to elevate any responsibilities now carried on in the Office of Education to the Assistant Secretary.* (118 Congressional Record S8281, (daily edition, May 23, 1972).)

In "Webster's Third New International Dictionary of the English Language Unabridged" (1961), the following definitions are found:

Supervise: to coordinate, direct, and inspect continuously and at first hand the accomplishment of: oversee with the powers of direction and decision the implementation of one's own or another's intentions.

Direction: guidance or supervision of action, conduct, or operation: specifically, chief executive function.

CONCLUSIONS

These provisions per se establish a line authority in the Assistant Secretary. They give to the Assistant Secretary authority to make broad educational policy for components of the Education Division—the Office of Education and the National Institute of Education—with accommodation for day-to-day administrative and policy decisions in the Commissioner and the Director of the National Institute of Education. To deny this is to fail to give any content to this basic organizational structure or to the concepts of "direction" and "supervision" which express the Assistant Secretary's relationship to the Office of Education and the National Institute of Education.

The notion that the Assistant Secretary should be, in effect, no more than a public relations officer with no really substantive authority appears to be at odds with the explanations of the managers of the bill in the House and Senate, and, to the statement in the Senate that

the law provides for "what is in effect a complete restructuring of the Federal education bureaucracy." (Senator Pell, May 23, 1972, 118 Congressional Record S8281). It would be directly contrary to Representative Perkins' statement on the floor of the House concerning the conference agreement:

"Mr. Speaker, for the purpose of legislative history on this bill, I would like to comment briefly on a few items which might otherwise leave some confused about the intent of the conferees. Let me say that I have checked with Mr. Quie, the ranking minority member, on each of these items and he agrees with me on the interpretation of these provisions.

"The conference report creates an education division within the Department of Health, Education, and Welfare, headed by an *assistant secretary to whom the Commission of Education and the Director of the National Institute of Education would report.* This assistant secretary should be the chief spokesman for education at the Federal level. *This bill makes him a line officer in HEW, rather than merely a staff person to the Secretary. The heads of both the Office of Education and the NIE will report to him.*

"The assistant secretary would have administrative responsibility under this bill for the Emergency School Aid Act. I would assume that he would be free to administer the program within his own office or delegate that authority to the Commissioner of Education. *Similarly, the assistant secretary could administer other educational programs delegated to him by the Secretary.*

"Mr. Speaker, we want to make clear, however, that the conferees did not intend to create a vast bureaucratic superstructure. Rather, the assistant secretary should require only the staff necessary to enable him to fulfill his responsibilities. I would assume that much of the supporting staff of the Office of the Secretary could be of assistance to him. *And, of course, the Office of Education and the NIE will have staffs able to carry out some of the policy decisions made by the assistant secretary.*" (118 Congressional Record H5424 (daily ed. June 8, 1971).) (Emphasis supplied.)

From the foregoing, I conclude that the Assistant Secretary for Education will have the following principal functions:

First, he will serve as the departmental spokesman and advocate for education and as the key Federal representative to the educational community and the public at large.

Second, he will be the senior adviser to the Secretary on the development and implementation of educational policies. An advocate is of little value unless his views are considered in his area of expertise. It should also be noted that the Secretary will, of course, receive and solicit advice and counsel from the Commissioner of Education, the Director of the National Institute of Education, and the National Council on Educational Research.

Third, in line with his responsibilities, he will be charged with coordinating the activities of the two agencies reporting to him, the Office of Education (OE) and the National Institute of Education (NIE). The vital feedback loop must be established and maintained, with field results flowing through OE as suggestions for changes or

new directions for NIE research, so that research and practice are related and not contradictory.

Fourth, he will perform a measure of administrative overview for both education agencies, including—

(*a*) Supervising the long-range planning, budgeting, and operational planning process of the Education Division.

(*b*) Providing guidance and, where appropriate, decisions on certain limited managerial issues in the Education Division, such as top-level personnel, management information systems, and major general services decisions.

(*c*) Management of the many advisory committees to agencies in the Education Division.

(*d*) Tracking correspondence and policy development issues to ensure thorough and prompt response.

A FINAL OBSERVATION

That there has been—unfortunately—some differences of opinion as to the role of the Assistant Secretary for Education imposes special oversight responsibilities upon this committee. I feel certain that all present and future members of the committee will be especially vigilant in exercising that responsibility.

PETER DOMINICK.

○

OVERSIGHT HEARING ON NATIONAL INSTITUTE OF EDUCATION

HEARING

BEFORE THE

SELECT SUBCOMMITTEE ON EDUCATION

OF THE

COMMITTEE ON EDUCATION AND LABOR

HOUSE OF REPRESENTATIVES

NINETY-THIRD CONGRESS

FIRST SESSION

ON

OVERSIGHT INTO THE ADMINISTRATION OF THE NATIONAL INSTITUTE OF EDUCATION

HEARING HELD IN WASHINGTON, D.C., FEBRUARY 6, 1973

Printed for the use of the Committee on Education and Labor

CARL D. PERKINS, *Chairman*

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OVERSIGHT HEARING ON NATIONAL INSTITUTE OF EDUCATION

TUESDAY, FEBRUARY 6, 1973

HOUSE OF REPRESENTATIVES,
SELECT SUBCOMMITTEE ON EDUCATION OF THE
COMMITTEE ON EDUCATION AND LABOR,
Washington, D.C.

The subcommittee met at 9:45 a.m., pursuant to call, in room 2261, Rayburn House Office Building, Hon. John Brademas (chairman of the subcommittee) presiding.

Present: Representatives Brademas, Grasso, Landgrebe, Peyser, and Sarasin.

Staff members present: Jack G. Duncan, counsel; Gladys Walker, clerk. Martin LaVor, minority legislative associate.

TITLE III—AMENDMENTS RELATING TO THE ADMINISTRATION OF EDUCATION PROGRAMS, PUBLIC LAW 92-318

* * * * * * *

"PART A—EDUCATION DIVISION OF THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

"THE EDUCATION DIVISION

"SEC. 401. There shall be, within the Department of Health, Education, and Welfare, an Education Division which shall be composed of the Office of Education and the National Institute of Education, and shall be headed by the Assistant Secretary for Education.

"ASSISTANT SECRETARY FOR EDUCATION

"SEC. 402. (a) There shall be in the Department of Health, Education, and Welfare an Assistant Secretary for Education, who shall be appointed by the President by and with the advice and consent of the Senate. The Assistant Secretary for Education shall be compensated at the rate specified for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(b) The Assistant Secretary shall be the principal officer in the Department to whom the Secretary shall assign responsibility for the direction and supervision of the Education Division. He shall not serve as Commissioner of Education or as Director of the National Institute of Education on either a temporary or permanent basis.

"THE OFFICE OF EDUCATION

"SEC. 403. (a) The purpose and duties of the Office of Education shall be to collect statistics and facts showing the condition and progress of education in the United States, and to disseminate such information respecting the organization and management of schools and school systems, and methods of teaching, as shall aid the people of the United States in the establishment and maintenance of efficient school systems, and otherwise promote the cause of education throughout the country. The Office of Education shall not have authority which is not expressly provided for by statute or implied therein.

(1)

"(b)(1) The management of the Office of Education shall, subject to the direction and supervision of the Secretary, be entrusted to a Commissioner of Education, who shall be appointed by the President by and with the advice and consent of the Senate, and who shall serve at the pleasure of the President.

"(2) The Commissioner may not engage in any other business, vocation, or employment while serving in any such position; nor may he, except with the express approval of the President in writing, hold any office in, or act in any capacity for, or have a financial interest in, any organization, agency, or institution to which the Office of Education makes a grant or with which it makes a contract or other financial arrangement.

"SUPPORT FOR IMPROVEMENT OF POSTSECONDARY EDUCATION

"SEC. 404. (a) Subject to the provisions of subsection (b), the Secretary is authorized to make grants to, and contracts with, institutions of postsecondary education (including combinations of such institutions) and other public and private educational institutions and agencies (except that no grant shall be made to an educational institution or agency other than a nonprofit institution or agency) to improve postsecondary educational opportunities by providing assistance to such educational institutions and agencies for—

"(1) encouraging the reform, innovation, and improvement of postsecondary education, and providing equal educational opportunity for all;

"(2) the creation of institutions and programs involving new paths to career and professional training, and new combinations of academic and experimental learning;

"(3) the establishment of institutions and programs based on the technology of communications;

"(4) the carrying out in postsecondary educational institutions of changes in internal structure and operations designed to clarify institutional priorities and purposes;

"(5) the design and introduction of cost-effective methods of instruction and operation;

"(6) the introduction of institutional reforms designed to expand individual opportunities for entering and reentering institutions and pursuing programs of study tailored to individual needs;

"(7) the introduction of reforms in graduate education in the structure of academic professions, and in the recruitment and retention of faculties; and

"(8) the creation of new institutions and programs for examining and awarding credentials to individuals, and the introduction of reforms in current institutional practices related thereto.

"(b) No grant shall be made or contract entered into under subsection (a) for a project or program with any institution of postsecondary education unless it has been submitted to each appropriate State Commission established under section 1202 of the Higher Education Act of 1965, and an opportunity afforded such Commission to submit its comments and recommendations to the Secretary.

"(c) For the purposes of this section the authority granted to the Commissioner in part D of this Act shall apply to the Secretary.

"(d) The Secretary may appoint, for terms not to exceed three years, without regard to the provisions of title 5 of the United States Code governing appointments in the competitive service, not more than five technical employees to administer this section who may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

"(e) There are authorized to be appropriated $10,000,000 for the fiscal year ending June 30, 1973, $50,000,000 for the fiscal year ending June 30, 1974, and $75,000,000 for the fiscal year ending June 30, 1975, for the purposes of this section.

"NATIONAL INSTITUTE OF EDUCATION

"SEC. 405. (a)(1) The Congress hereby declares it to be the policy of the United States to provide to every person an equal opportunity to receive an education of high quality regardless of his race, color, religion, sex, national origin, or social class. Although the American education system has pursued this objective, it has not yet attained that objective. Inequalities of opportunity to receive high quality education remain pronounced. To achieve quality will require

far more dependable knowledge about the processes of learning and education than now exists or can be expected from present research and experimentation in this field. While the direction of the education system remains primarily the responsibility of State and local governments, the Federal Government has a clear responsibility to provide leadership in the conduct and support of scientific inquiry into the educational process.

"(2) The Congress further declares it to be the policy of the United States to—

"(i) help to solve or to alleviate the problems of, and promote the reform and renewal of American education;

"(ii) advance the practice of education, as an art, science, and profession;

"(iii) strengthen the scientific and technological foundations of education; and

"(iv) build an effective educational research and development system.

"(b)(1) In order to carry out the policy set forth in subsection (a), there is established the National Institute of Education (hereinafter referred to as the 'Institute') which shall consist of a National Council on Educational Research (referred to in this section as the 'Council') and a Director of the Institute (hereinafter referred to as the 'Director'). The Institute shall have only such authority as may be vested therein by this section.

"(2) The Institute shall, in accordance with the provisions of this section, seek to improve education, including career education, in the United States through—

"(A) helping to solve or to alleviate the problems of, and achieve the objectives of American education;

"(B) advancing the practice of education, as an art, science, and profession;

"(C) the strengthening of the scientific and technological foundations of education; and

"(D) building an effective educational research and development system.

"(c)(1) The Council shall consist of fifteen members appointed by the President, by and with the advice and consent of the Senate, the Director, and such other ex officio members who are officers of the United States as the President may designate. Eight members of the Council (excluding ex officio members) shall constitute a quorum. The Chairman of the Council shall be designated from among its appointed members by the President. Ex officio members shall not have a vote on the Council.

"(2) The term of office of the members of the Council (other than ex officio members) shall be three years, except that (A) the members first taking office shall serve as designated by the President, five for terms of three years, five for terms of two years, and five for terms of one year, and (B) any member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed. Any appointed member who has been a member of the Council for six consecutive years shall thereafter be ineligible for appointment to the Council during the two-year period following the expiration of such sixth year.

"(3) The Council shall—

"(A) establish general policies for, and review the conduct of, the Institute;

"(B) advise the Assistant Secretary and the Director of the Institute on development of programs to be carried out by the Institute;

"(C) present to the Assistant Secretary and the Director such recommendations as it may deem appropriate for the strengthening of educational research, the improvement of methods of collecting and disseminating the findings of educational research and of insuring the implementation of educational renewal and reform based upon the findings of educational research;

"(D) conduct such studies as may be necessary to fulfill its functions under this section;

"(E) prepare an annual report to the Assistant Secretary on the current status and needs of educational research in the United States

"(F) submit an annual report to the President on the activities of the Institute, and on education and educational research in general, (i) which shall include such recommendations and comments as the Council may deem appropriate, and (ii) shall be submitted to the Congress not later than March 31 of each year; and

"(G) meet at the call of the Chairman, except that it shall meet (i) at least four times during each fiscal year, or (ii) whenever one-third of the members request in writing that a meeting be held.

The Director shall make available to the Council such information and assistance as may be necessary to enable the Council to carry out its functions.

"(d)(1) The Director of the Institute shall be appointed by the President, by and with the advice and consent of the Senate, and shall serve at the pleasure of the President. The Director shall be compensated at the rate provided for level V of the Executive Schedule under section 5316 of title 5, United States Code, and shall perform such duties and exercise such powers and authorities as the Council, subject to the general supervision of the Assistant Secretary, may prescribe. The Director shall be responsible to the Assistant Secretary and shall report to the Secretary through the Assistant Secretary and not to or through any other officer of the Department of Health, Education, and Welfare. The Director shall not delegate any of his functions to any other officer who is not directly responsible to him.

"(2) There shall be a Deputy Director of the Institute (referred to in this section as the 'Deputy Director') who shall be appointed by the President and shall serve at the pleasure of the President. The Deputy Director shall be compensated at the rate provided for grade 18 of the General Schedule set forth in section 5332 of title 5, United States Code, and shall act for the Director during the absence or disability of the Director and exercise such powers and authorities as the Director may prescribe. The position created by this paragraph shall be in addition to the number of positions placed in grade 18 of the General Schedule under section 5108 of title 5, United States Code.

"(e)(1) In order to carry out the objectives of the Institute, the Director is authorized, through the Institute, to conduct educational research; collect and disseminate the findings of educational research; train individuals in educational research; assist and foster such research, collection, dissemination, or training through grants, or technical assistance to, or jointly financed cooperative arrangements with, public or private organizations, institutions, agencies, or individuals; promote the coordination of such research and research support within the Federal Government; and may construct or provide (by grant or otherwise) for such facilities as he determines may be required to accomplish such purposes. As used in this subsection, the term 'educational research' includes research (basic and applied), planning, surveys, evaluations, investigations, experiments, developments, and demonstrations in the field of education (including career education).

"(2) Not less than 90 per centum of the funds appropriated pursuant to subsection (h) for any fiscal year shall be expended to carry out this section through grants or contracts with qualified public or private agencies and individuals.

"(3) The Director may appoint, for terms not to exceed three years, without regard to the provisions of title 5 of the United States Code governing appointment in the competitive service and may compensate without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, such technical or professional employees of the Institute as he deems necessary to accomplish its functions and also appoint and compensate without regard to such provisions not to exceed one fifth of the number of full-time, regular technical or professional employees of the Institute.

"(f)(1) The Director, in order to carry out the provisions of this section, is authorized—

"(A) to make, promulgate, issue, rescind, and amend rules and regulations governing the manner of operation of the Institute;

"(B) to accept unconditional gifts or donations of services, money or property, real, personal or mixed, tangible or intangible;

"(C) without regard to section 3648 of the Revised Statutes of the United States (31 U.S.C. 529), United States Code, to enter into and perform such contracts, leases, cooperative agreements or other transactions as may be necessary for the conduct of the Institute's work and on such terms as he may deem appropriate with any agency or instrumentality of the United States, or with any State, territory or possession, or with any political subdivision thereof, or with any international organization or agency, or with any firm, association, corporation or educational institution, or with any person, without regard to statutory provisions prohibiting payment of compensation to aliens;

"(D) to acquire (by purchase, lease, condemnation or otherwise), construct, improve, repair, operate and maintain laboratories, research and

testing facilities, computing devices, communications networks and machinery, and such other real and personal property or interest therein as deemed necessary;

"(E) to acquire (by purchase, lease, condemnation or otherwise) and to lease to others or to sell such property in accordance with the provisions of the Federal Property and Administrative Services Act, patents, copyrights, computing programs, theatrical and broadcast performance rights or any form of property whatsoever or any rights thereunder; and

"(F) to use the services, computation capacity, communications networks, equipment, personnel, and facilities of Federal and other agencies with their consent, with or without reimbursement. Each department and agency of the Federal Government shall cooperate fully with the Director in making its services, equipment, personnel and facilities available to the Institute.

"(2) All laborers and mechanics employed by contractors or subcontractors on all construction projects assisted under this title shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5). The Secretary of Labor shall have with respect to the labor standards specified in this section the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. (33z-15) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276(c)).

"(g) Where funds are advanced for a single project by more than one Federal agency for the purposes of this section, the National Institute of Education may act for all in administering the funds advanced.

"(h) There are hereby authorized to be appropriated, without fiscal year limitations, $550,000,000, in the aggregate, for the period beginning July 1, 1972, and ending June 30, 1975, to carry out the functions of the Institute. Sums so appropriated shall, notwithstanding any other provision of law unless enacted in express limitation of this subsection, remain available for the purposes of this subsection until expended."

(b)(1) The amendments made by subsection (a) shall be effective after June 30, 1972.

(2)(A) Effective July 1, 1972, sections 516 and 517 of the Revised Statutes of the United States (20 U.S.C. 1, 2) are repealed.

(B) Effective July 1, 1972, section 422 of the General Education Provisions Act is amended by striking out "(as set forth in section 516 of the Revised Statutes (20 U.S.C. 1))" and inserting in lieu thereof "(as set forth in section 403(a) of this Act)".

Mr. BRADEMAS. The Select Subcommittee on Education of the House Committee on Education and Labor will come to order for the purpose of oversight hearings on the National Institute of Education, which was authorized by the 92d Congress.

The Chair would like to observe at the outset that we are very pleased to have some new members of our subcommittee. They are not all here today, but we will admonish them to try to be more faithful in their attendance.

For the benefit of observers here today, the members of the Select Subcommittee on Education in the 93d Congress will be Mr. Brademas, of Indiana, chairman; Mrs. Mink, of Hawaii; Mrs. Chisholm, of New York; Mrs. Grasso, of Connecticut; Mr. Lehman, of Florida; Mr. Meeds, of Washington; Mr. Mazzoli, of Kentucky; Mr. Badillo, of New York; and, to my left, Mr. Eshleman, of Pennsylvania; Mr. Landgrebe, of Indiana; Mr. Hansen, of Idaho; Mr. Peyser, of New York; and Mr. Sarasin, of Connecticut. We are very pleased to welcome back the former members of the subcommittee and to meet the new members.

At the outset of these hearings, the Chair would like to recall that he warmly applauded President Nixon's initiative in his March 1970 message to Congress on education, in which he proposed the creation of a National Institute of Education. This subcommittee conducted

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lengthy hearings on the proposed National Institute of Education, and members of the subcommittee, both majority and minority, strongly supported the proposal, defended it through the conference with the Senate as part of the Education Amendments of 1972 and defended it on the floor of the House when the education amendments were considered there.

The Chair would also observe that one of the reasons, in his judgment, that the Institute found such warm bipartisan support on this subcommittee, and in Congress generally, was an apprehension on the part of Members of the Congress that we had not benefited adequately from earlier Federal investments in educational research, and that we needed, if we were to improve the quality of education in this country, an effective, visible, and comprehensive educational research effort.

The National Institute of Education was therefore charged with supporting research in education at all levels from the earliest years, indeed throughout life, in both formal and nonformal learning situations.

The Chair would also like to note that, in creating the Institute, the conferees on the Education Amendments of 1972 decided to establish within the Department of Health, Education, and Welfare, a Division of Education, to be headed by a new Assistant Secretary of the Department for Education. The National Institute of Education and the Office of Education, both with their own policy-making authority, the conferees agreed, were to compose the Education Division.

Therefore, in light of the work that the members of this subcommittee have put into creation of the National Institute of Education, all of us on the subcommittee have a very deep interest in how the Institute is getting along, and the Chair felt it appropriate, at the outset of the 93d Congress, to review the work of the Institute created by the 92d.

We are very pleased to have with us today Dr. Thomas Glennan, the first Director of the National Institute of Education, and subsequently we shall be pleased to hear from Dr. Sidney P. Marland, the Assistant Secretary for Education under the new Secretary, as well as Mr. James McElroy, Executive Director of the National Committee for Educational Change.

Dr. Glennan, you have a very great responsibility as the first Director of the National Institute of Education, and I think you are aware that members of this subcommittee, both Democrats and Republicans, are strongly supporting you in your effort to make the NIE a significant enterprise for the improvement of American education.

So you have strong supporters on this subcommittee and, speaking for himself—and the Chair is sure he reflects the views of other members of the subcommittee—we have an interest only in seeing that the Institute be effective in meeting the purposes for which it was written in the law.

So we are very pleased to welcome you here today and look forward to hearing your views.

STATEMENT OF DR. THOMAS K. GLENNAN, JR., DIRECTOR, NATIONAL INSTITUTE OF EDUCATION

Dr. GLENNAN. Thank you, Mr. Chairman. This is my first foray before the Congress with respect to the affairs of the Institute, and I welcome the opportunity. I hope it is the sort of thing we can do on a continuing basis, because I do know that you have a very deep personal involvement, as well as the rest of your committee, in the organization and the formation of the Institute.

With us this morning, I will introduce at the outset here, Everson Elliott, who is Acting Deputy Director of the Institute and will be named very shortly, as we get out from under the freezes, the Deputy Director of the Institute. As you know, he has been steering the thing through from the very beginning and has been of tremendous assistance to me.

Charles Saunders, Acting Deputy Assistant Secretary for Policy Communication in the Office of the Assistant Secretary, Office of Education, will be here and, if there are issues that come up with respect to the Assistant Secretary before Dr. Marland joins us, he will be able to respond to us.

Judy Pitney, Acting Deputy Assistant of the Office of the Secretary, Office of Education, is on my left.

With your permission, I would like to read what I hope is a fairly brief statement directed to what I understand are some of your concerns, and then we can proceed.

I appreciate this opportunity to give you a status report on the National Institute of Education and to address certain questions which have been raised about the legal basis for some of our activities.

I should like to discuss five areas: the programs of the education laboratories and R. & D. centers, our review of other programs transferred from the Office of Education, our field-initiated studies program, our general regulations, and the planning process underway to plan new initiatives.

LABS AND CENTERS

As you know, NIE has implemented the policy initiated by the Office of Education of shifting support for the education labs and centers from an institutional basis to procurement of specific programs. NIE completed the review, already in process when they were transferred to us, of the labs' and centers' 68 programs and announced on November 10 our decisions to:

Provide contracts for 1 year or less for 26 programs.
Provide 3-year contracts for 22 programs.
Phase out 11 programs.
Provide 2-year contracts for four programs.
Not to fund five proposed new programs.

A total of $34.1 million—compared to $35 million in fiscal year 1972—has been budgeted for the labs' and centers' programs in fiscal year 1973. This $34.1 million includes $1.2 million reserved for management fee awards and sustaining grants to assist the labs and centers in shifting to the new basis of support.

In this instance, the contracts and grants of the labs and centers extended only to December 1972, and we had to make some decisions as to our course of action. It appeared most appropriate to us to, implement the new policy that was already in process and being implemented when we inherited it.

OTHER PROGRAMS INHERITED FROM OE

Thorough reviews have now been completed of three other major programs transferred from the Office of Education—dissemination, career education model development, and experimental schools. We are now preparing recommendations, based on this review process, of the programs' future directions for discussion with the National Council on Educational Research.

In the interim, we have funded only the continuation of expiring grants and contracts for programs inherited from OE. In these cases, we have concluded that the Government had a clear commitment that should be met or had incurred a substantial investment that would be lost if the funding were to lapse.

We believe that these were the minimum responsible actions required under the circumstances. We hope to delay awarding any new grants or contracts in these or any other areas until the National Council has been appointed and has had an opportunity to review and consider our recommendations as to the programs' future directions. That extends to renewing grants or contracts for any substantial period of time, not just any renewal.

Third, with respect to the field-initiated studies program, we have also, as you know, announced the continuation of OE's program of awards to researchers, which we have labeled "field-initiated studies." Let me take a moment first to discuss what we have done and, second, why we did it.

Researchers have been asked to submit proposals on virtually any topic promising to extend knowledge about American education. Colleges, universities, State departments of education, profit and nonprofit public or private institutions, and individuals are eligible to apply for grants in the following areas:

SELECTED DISCIPLINES RESEARCH

This program is designed to encourage those not traditionally concerned with education from the several disciplines—economics, political science, anthropology, and legal research—to apply their expertise to educational problems.

GRANTS FOR RESEARCH IN EDUCATION

Generally this is designed to provide support for established researchers in fields other than the selected disciplines.

SMALL GRANTS RESEARCH

. nder this program, support will be provided to qualified but less experienced scholars to come into the field of educational research or established researchers in any field.

While we do not believe that starting this program diminishes the National Council's legislative mandate to "establish general policies" for the Institute, we were reluctant to do so in the Council's absence. Nevertheless, we went forward for several reasons:

Our activities represent essentially a continuation of an area of OE activities transferred to us, activities that are a keystone of our ability to fulfill NIE's legislative mandate to strengthen the scientific and technical foundations of American education.

In the hope that a National Council would be appointed in time to review the field-initiated studies program, we had already delayed its announcement so long that we have given researchers only a minimal time to prepare prospectuses or proposals and our staff only a minimal time to review them responsibly, to negotiate budgets with the proposers, and to process the grants and contracts. Had we delayed any longer, we simply could not have had a field-initiated studies program this fiscal year.

As the name implies, this program responds to initiatives from the field as to the nature and subject matter of the research to be done. We have not—with the exception of the selected disciplines research and of ruling out large-scale development projects—put any restrictions on what activities should be carried out.

In sum, we did not specify any substantive priorities for the research that might be funded, and we carefully gave no indication that sponsoring field-initiated studies would be a continuing NIE policy—although I personally hope that it will be—in order to allow the Council maximum flexibility in its future review of this program.

ADMINISTRATIVE AND MANAGEMENT ACTIVITIES

We have published our general regulations in the Federal Register for the 30-day public review period. These general regulations are almost exclusively procedural. No substantive program areas are addressed.

This is consistent with the NIE statute which says: "The Director is authorized to make, promulgate, issue, rescind and amend rules and regulations governing the manner of operation of the Institute." However, we hope to submit these regulations to the Council, when appointed, for its review before final publication in the Register.

Similarly, we will provide the Congress with a justification of appropriations to amplify the President's fiscal year 1974 budget request, but our justifications will make very clear that the tentative allocations have not been approved by the Council.

In addition, we have moved to guarantee better control over our grants and contracts processes. We have been working toward implementation of the recommendations of the Commission on Government Procurement, for example, by:

Combining the grants and contracts processing in one office, a procedure that permits maximum control and coordination.

Attempting to develop clear definitions of the conditions under which a grant should be awarded and the conditions under which a contract should be let.

Insuring that a grant or contract will be awarded only after a procurement officer has signed it; the signature of a program officer is not sufficient.

Involving the grants and contracts personnel in all phases of our program development, insuring rational implementation of policies with respect to NIE priorities when they are developed.

NIE is an institution which intends to be fully accountable to the Congress, to the education and research communities, and to the public.

PLANNING PROCESS FOR NEW INITIATIVES

Let me turn now to the question of the NIE planning process. We are attempting to construct, from the record of the congressional debate, from the planning papers prepared over the last 2 years, and from other reports and discussions since the legislation was enacted, an initial NIE program structure and program plan. By that, I mean a framework and description which will assist the Council, the NIE staff, educators, researchers, and the general public in understanding how NIE will start to meet the objectives set out for it in the statute.

This will include the discussion of the strategies we could employ and of the program areas where we would begin serious research—systematic studies of the state of our knowledge, exploratory studies, definitions of the research questions, and similar undertakings.

The result of this planning work will be a report for consideration by the Council—a major device, I think, by which that body can carry out its statutory responsibility to give policy guidance to the Institute. The report will also be of considerable assistance in decisions for staffing NIE as well as guiding budget and other management decisions.

Our goal is a structure that encourages a multidisciplinary focus on education problems, that builds quality and integrity into our work, and that insures the responsiveness to the needs and interests of policymakers, researchers, educators, and parents.

I think it is quite obvious, from my remarks, that we have had to pursue a very delicate course over the last few months—begin the process of organizing a new agency and deal with a set of transferred programs without impinging upon the prerogatives of our as yet-to-be-appointed Council. Doing this requires some difficult decisions. In each case, however, we have attempted to respect the rights of the Council while we begin to implement the legislation passed by the Congress.

Ladies and gentlemen, I thank you for your time and will be glad to answer any questions you may have.

Mr. BRADEMAS. Thank you, Dr. Glennan.

Dr. Glennan, I wonder if you could comment on your view of the policymaking authority of the National Council on Educational Research. What is your understanding of what Congress intended when writing that provision into the law?

Dr. GLENNAN. I think the law says very clearly that the council shall provide general policy guidance to the Institute.

I suspect one of the first things the Council has to decide is what constitutes general policy guidance. I would suspect that in itself, a definition of "policy" is a "policy."

My personal view is that the major emphasis that the Council should have is on the priorities and directions and the major funding allocations of our budget activities, our program activities.

And we have, as we have been thinking through at least our proposals to the Council, very much integrated the activities of the Council into our budget planning exercises.

Mr. BRADEMAS. I notice that the statute itself says that "In order to carry out the policy * * * there is established the National Institute of Education * * * which shall consist of a National Council on Educational Research * * * and a Director of the Institute." And later, "The Council shall establish general policies for and review the conduct of the Institute."

You have just indicated in your own response to my question that the Council, in your view, should set priorities, directions and make judgments on major funding activities.

I also notice that the statute says that the Director of the Institute shall be appointed by the President and shall perform such duties and exercise such powers and authorities as the Council may prescribe.

Now, against the background of those statutory mandates—in view of what you have already said in your own understanding of the purpose of the Council—could you give us your judgment in a more concrete way of just what those requirements mean? What do those mandates mean with respect to your decisions to continue the voucher demonstration program, to undertake a field initiated research program, to drastically alter the method of fund laboratories?

Surely, you don't suggest that these are, to quote you elsewhere in your statement, simply representative of planning work. Are these not all policy decisions?

Dr. GLENNAN. First, no decision has been made with respect to continuation of vouchers. Vouchers is not a responsibility within the Institute as yet, and so I make that very clear.

Mr. BRADEMAS. Have you looked at the budget?

Dr. GLENNAN. Yes, but there has not been a decision made to continue vouchers.

Mr. BRADEMAS. That is not the way I read the budget, but go ahead.

Dr. GLENNAN. Well, I say to you here that the decision has not been made. It seems to me that is clearly a responsibility of the Council. That involves a very long-term commitment.

Mr. BRADEMAS. I want to come back to that, but go ahead.

Dr. GLENNAN. Sure. I guess that I would have to agree that all of the things you have mentioned are things that I would feel would fall with the gist of policy.

I don't think there is any question about that. We did and do read in the legislation a sense that there was an agreement that this first year of transition in which people would be getting things together.

Mr. BRADEMAS. Where did you read that?

Dr. GLENNAN. It says during the fiscal year 1973, the Council along with the Director will be developing policies and procedures for NIE.

Mr. BRADEMAS. The Council along with the director I think you just read.

Dr. GLENNAN. That is right, to insure continuity of the programs, we would expect the Director of NIE during fiscal year 1973 to be responsible to provide direction and leadership to these programs and projects. There is a sense that is this transition year there may be things done a little differently.

Mr. BRADEMAS. Let me make this observation, Dr. Glennan. I am a strong supporter of the National Institute and it seems to me that we have labored mightily in the subcommittee to give you bipartisan support.

I feel rather sensitive about that. That bill came out of this subcommittee unanimously. I think it was adopted without a dissenting vote in the Committee on Education and Labor of the House.

I have certainly personally tried to work as hard as I can to insure bipartisan support. But I suggest to you that you are in flagrant violation of the law.

The Institute was established last summer. The question of the provision of a National Council was not a whim of the members of this committee or of Congress.

It is a statutory mandatory requirement, and it seems to me that for decisions to be made that, as you just agreed, are directly within the framework of policy, without the establishment of this Council, puts you in direct violation of not only the intent of Congress, but of the explicit statutory language of the Education Amendments of 1973.

I am really quite distressed that you should be getting off on this foot, and I think that the administration has not been operating in good faith with those of us, of both parties, who tried to give you strong support.

I see no justification whatsoever for this very lengthy delay in establishing the Council. You are now subject, as I think a subsequent witness will suggest, to the possibility of an injunction that you are in violation of the law in spending these moneys.

Even absent the legal question, I have heard Secretary Marland tell me personally and publicly how committed he is to responding to the intent of Congress.

My mind goes back, as my colleagues here will recall, to the fact that in 1970, the President signed into law the Environmental Educational Act, a much more modest enterprise, which included a statutory mandate to establish a mere Advisory Council. It was not until a full year later, almost to the day, that the administration got around to obeying the law—and only under pressure from this subcommittee did it do so.

I then read you to say, as I look at your statement, that you can justify spending money without the establishment of a Council. You say on page 2:

> We have funded only the continuation of expiring grants and contracts for programs inherited from OE.
>
> In these cases we have concluded that the Government had a clear commitment that should be met or had incurred a substantial investment that would be lost if the funding were to lapse.

Now, that rather surprises me. Here is a case where you are going ahead to spend money, without obeying the statutory requirement to establish a Council to give policy directions on the spending of money, on the grounds that the Government had a clear commitment that should be met, or had incurred a substantial investment that would be lost, if funding were to lapse. On the other side of the coin, the executive branch of the Government is now impounding appropriated funds on the grounds that we in Congress are too uncivilized to make intelligent judgments.

So, it seems you are perfectly willing to spend money in violation of congressional intent if it suits you, just as the administration wants to impound appropriated funds where it suits them.

I find this logic rather difficult to reconcile.

Dr. GLENNAN. Well, it is very difficult to respond to you, sir. I have, I suspect every bit as much distress over the lack of a Council as you, I am in a position where I think I am given certain responsibilities and the arguments all just derive from the lack of Council.

Under the circumstances, and with the advice of counsel, it was our judgment that it was the most responsible act that I could take to make these awards. I would make it very clear that of the $103 million that have so far been appropriated to us, only about $18 million has been spent.

Mr. BRADEMAS. The amount of the money has nothing to do with the sin.

Dr. GLENNAN. Well, I suspect that is true.

Mr. BRADEMAS. That is not the point. You could spend a dollar and you would still be in violation of the intent of Congress. Don't you understand my point?

Dr. GLENNAN. I understand your logic, sir.

Mr. BRADEMAS. When are you going to appoint the Council?

Dr. GLENNAN. I don't appoint the Council.

Mr. BRADEMAS. When will the Council be appointed?

Dr. GLENNAN. My understanding is that the appointment is imminent, but I have been saying that for quite some time.

Mr. BRADEMAS. Yes, you have as a matter of fact. When do you think the statute was signed into law?

Dr. GLENNAN. The Institute came into being on the first of August.

Mr. BRADEMAS. This is February. As I told Mr. Marland in another context, the Members of the House only get elected for 2 years.

I think this situation is a cavalier display of contempt of Congress, disdain for both the Republicans and Democrats who worked hard on this legislation. It is a very good way to undermine the support that some of us, in good faith, have tried to generate for what we regard as a very important enterprise.

Let me ask you this question: What is the difference between the research being supported by the NIE and the older research effort at OE?

Dr. GLENNAN. Well, if I can restrict it first to the field-initiated studies program, the one part that I would support would be most nearly research, as opposed to development and experimentation. The difference, we hope, will be in the quality of the process we use to generate and to select the research to be done.

We have put a great deal of emphasis on trying to get the very best kinds of minds.

Mr. BRADEMAS. Let me refine my question. What is the difference in terms of program? Quality is a rather metaphysical concept which may be different in your mind than in the mind of somebody else.

You say you have only $18 million.

Dr. GLENNAN. I say $18 million has been spent.

Mr. BRADEMAS. How have you spent that in a different way? And how do you contemplate spending whatever money is remaining in

fiscal 1973 in a manner different from the way moneys have been expended under the National Center for Educational Research. Are you doing it differently from what was done at OE?

Dr. GLENNAN. What we have been trying to do is improve the quality of staff in the Institute, improve it over what existed in the Office of Education.

We have been seeking outside advice from the best people we could find to examine the things we inherited. We are in some instances considering cutbacks or reorientations.

We are clearly trying to reach a clear agreement in the labs and centers programs or in the Career Educational Models Developments, a very clear agreement with the contractors as to what their responsibilities are, what they should be delivering, and so forth.

In many cases, we find that definition has never existed. We have not known what it was that was being procured.

Mr. BRADEMAS. Let me put my question a third time. What programs are different that NIE is now supporting?

Dr. GLENNAN. We have not started new programs with the exception of the field-initiated studies program. There are no resources to start those new programs this year.

We have been trying to pull some sense of order into what we inherited, and we have a long way to go on doing that. New programs are some distance off in this Institute as far as things that have direction and a sense of purpose.

It takes time to plan those. And that has not been what we have been doing. That is one of the reasons I feel more comfortable with this very unfortunate situation with respect to the council; the real dimensions of the Institutes' effort are some distance away.

Mr. BRADEMAS. Dr. Glennan, I have many more questions, but I want to be sure my colleagues have a chance to put some to you. As you know, I must reiterate that I tried in good faith, as the chairman of this subcommittee and as sponsor of the bill in the House, to be as totally bipartisan as I could in supporting it and in supporting you. But I must confess that I am deeply distressed that the administration, which after all initiated this proposal, unlike a lot of other proposals, does not seem to be as supportive of its own proposal as some of us in Congress on both sides of the aisle, have tried to be.

I think that the administration, having failed to appoint this Council as statutorily mandated by the law, reflects a contempt for Congress that I think is most distressing.

I would hope that this gross deficiency can be very speedily remedied. Get that Council appointed, get them to business, start obeying the law. Then you will find us not being critical, for we want to be supportive.

I do not want to sit up here and throw darts at you.

Dr. GLENNAN. I agree with you, and I have that same hope. I would emphasize that from everything that I have been able to see, this is not a matter of disrespect or contempt of the Congress.

The problem occurred in the first place around election time, with the changing of the Secretaries at HEW. Of course, this does not mean that there should not have been a Council appointed last August.

But given where I came into this thing and what I have been able to

see, I believe that the administration has proceeded in as good faith as could be expected under the situation.

But, I share with you your concern, and I hope that I will be able to come before you or come see you very soon and indicate that we in fact have a Council.

Mr. BRADEMAS. As a great American once said, "We shall watch what you do and not what you say."

Dr. GLENNAN. I think that is exactly right.

Mr. BRADEMAS. Mr. Peyser?

Mr. PEYSER. I will yield to Mr. Landgrebe.

Mr. LANDGREBE. Doctor, this National Institute of Education is something new in America—the law was passed and we are just developing this Institute.

Dr. GLENNAN. That is right.

Mr. LANDGREBE. And we have hopes that this is going to make a great impact on the educational processes of the United States?

Dr. GLENNAN. That is correct.

Mr. LANDGREBE. From your statement, you feel that you have made some progress in our proceeding along some respectable lines, even without the Advisory Council having been named at this point.

Dr. GLENNAN. I think what the statement has intended to convey is that we are trying to get our house in order. We inherited a lot. We had a lot of programs started under a variety of different mandates.

We had some programs under a somewhat indifferent management, some under quite good management. What we have done so far is basically try to make sure that we understood what was being done and why it was being done and give some sense of direction to those things.

I think that the problem of setting up an Institute like this is a long-term problem. We have heard a lot of promises in the past about quick results from research, and I do not believe that much of research will show results like that.

Education research is a long process as it is in every other field. It should not be any different in education. So, I think because that is the case, it behooves us in this early period of the institute to enter into thoughtful planning activities, dialogs with many communities around the country, to try and set a base for a really significant, well-understood, well-directed effort.

That is what I hope we have been doing in the first few months. I have been in the job for about 3 months.

Mr. LANDGREBE. Also, just to pursue this situation with one more comment or question, really America is almost 200 years old, and to develop this new institute will require special skills and advisory board or people that you cannot go out and pick off of the streetcorners.

There must be some justification in addition to the turmoil, the political turmoil, that is constantly going on in our country. But to select the right board for this particular assignment seems like a rather momentous task.

Don't you think so?

Dr. GLENNAN. I think so. I have recently been spending some time on this and one of the things that has occurred is that the people we have talked to, good people, very good people, have all recognized that this is going to be a time-consuming affair, and since they are

good people, they have plently of other commitments. So one of the problems that has slowed the naming of the board is the fact that these people have to weigh whether this kind of activity was going to be of greater value to the country or to them than some other kind of activity.

We would guess that this board will have to meet between 12 and 20 working days a year. That is a very significant commitment of time on the part of very good people. The problems are somewhat akin to my going out to try to find people to be chief staff people in my office; it frequently takes 3 months, 6 months, 9 months to find people who are both good and can make and will make that kind of commitment.

Mr. LANDGREBE. I do not believe I have any more questions.

Mr. Chairman, thank you.

Mr. BRADEMAS. Mrs. Grasso?

Mrs. GRASSO. Doctor, you say it has been difficult for you to recruit people to serve on the Council. If this should continue indefinitely, what do you feel your function will be?

Dr. GLENNAN. I do not think it can continue indefinitely. I cannot continue. I think it is fair to say that I have stretched things as far as I am willing to stretch them.

I have told my staff that we will not approve things that have future year implication. So, I think we will have a Council and I am convinced we are going to have a Council.

Mrs. GRASSO. If ever this Council is appointed, how much leadtime do you think the members will need before they can make judgments that will be of value?

Dr. GLENNAN. I think that the first few months of this Council are going to be a hectic affairs. They will have as much leadtime as I had in recommending some of these decisions. There are simply questions that have to be decided and I think it is a manner of good management to figure out how to solve them with the kind of information you have in hand.

But, I think they are going to have to act very quickly. Given that they are in fact confirmed rapidly by the Senate, we would expect to meet very quickly with them to deal with two sets of issues.

The first issue which I mentioned to Congressman Brademas before, is, What do they consider to be policy? And how do they want to structure their involvement? What kind of support do they require from the institute?

The second, is to deal with the set of outstanding issues which would include recommendations with respect to career education, experimental schools, dissemination activities, and field initiated studies.

They will have to make those decisions, I am afraid, with less than the kind of information and kind of interaction with the public that we would hope to come to in the long term.

We will try to suggest to them that they make their decisions with minimum long-term commitments so there is a possibility for them to make policy revisions in the future.

I guess that is probably the best answer I can give you.

Mrs. GRASSO. I find it very difficult to understand the problems that you have in recruiting when this was a program that was embraced with such enthusiasm by all of the people in the Congress, and by people in the whole area of education.

How far along are you in filling these slots on the Council?

Dr. GLENNAN. The White House has that responsibility, and I cannot speak for them. But, I would reiterate the fact that the difficulty of recruiting in this position is that you are trying to find people who will spend 12 to 20 working days a year on this.

That is a difficult thing to ask of an individual, it seems to me, and he has to feel very strongly about it and the best kind of people are already committed to plenty of other things.

Mr. BRADEMAS. Will the gentlelady yield?

Mrs. GRASSO. Yes.

Mr. BRADEMAS. We will come up with some first-class names for you if you are having trouble. I have been overwhelmed, as one identified with the Institute, with requests for consideration on the part of people whose politics I do not even know—but I do know they are able people. I might just observe one other thing if the gentlelady will yield for a further observation.

You must understand that we are talking to you within the context of very depressing experiences. I have in front of me two letters to Mr. Weinberger of resignation from the National Advisory Council for Environmental Education mandated by the Environmental Education Act.

These are two of the ablest people on that Advisory Council. One of them who is the executive director of the Minnesota Environmental Sciences Foundation says, and I quote his letter of January 31:

> Thirteen months after the Act was passed and signed into law, the Advisory Council called for therein, met for the first time.
>
> Its membership was poorly chosen, greatly lacking in environmental education expertise, and to this date, its fully authorized complement of 21 has never been achieved.

The other letter is from Chancellor Edward Weidner of the University of Wisconsin, Green Bay, recognized all over this country as one of the leading environmental educators. He too, for similar reasons, found it necessary to resign, and in his letter dated January 30, 1973, writes:

> The Advisory Council was constituted in such a way as to hinder its effectiveness. No remedial action was taken when its ineffectiveness was apparent to all.

Anybody that knows anything about the way these programs have been operating knows that the HEW has made a shambles of some of these advisory councils.

So, we are not talking against the background of inexperience. The law was violated then. People of no great competence were assigned to this Environmental Education Council. And then, the administration fired the Director of Environmental Education, and told us, "Well, he just was not competent." Before they appointed him they had justified the great delay by saying, "We wanted to get a first-class person."

They were trying to have it both ways.

Dr. GLENNAN. I think we safely prevented this from becoming just another advisory council by the law you have written, and I do not intend to treat it that way.

Mrs. GRASSO. I have no further questions.

Mr. BRADEMAS. Mr. Peyser, of New York.

Mr. PEYSER. Doctor, we are glad to have you with us this morning. I have a number of questions of concern here. One of them was touched on by the chairman, and I would like to explore it a little further. This deals with your answer to his question on vouchers.

I am reading here from the memorandum from William Filter, from OEO, on this question where it states here:

The National Institute of Education includes $23.9 million to continue educational voucher demonstration programs.

Now, the basic question: Is that correct or isn't it?

Dr. GLENNAN. I think that the OMB took funds associated with the voucher project and transferred them to the NIE. They transferred them; that is, they put that into NIE appropriation request for 1974.

My assumption is that any work on vouchers and any money spent by the Institute and any intention to continue that program with moneys appropriated to the Institute will be subject to review of that Council.

Mr. PEYSER. Do you have any ongoing programs right now with vouchers utilizing the funds?

Dr. GLENNAN. Not in the Institute, no.

Mr. PEYSER. I mean, if the program has been transferred.

Dr. GLENNAN. It has not been transferred as yet.

Mr. PEYSER. But it is going to be transferred?

Dr. GLENNAN. It is proposed to be transferred.

Mr. PEYSER. It is proposed to be transferred because there won't be any other place to run the program, so it will be part of NIE, there is no question of that?

Dr. GLENNAN. That is right.

Mr. PEYSER. My question is: Are you at this point aware of those programs—and I am sure you are—and what is their future? In other words, are those programs on a continuing basis right now?

Dr. GLENNAN. My understanding from the conversations, just checking back to see what happened since I left OEO, is one in-school limited voucher demonstration in Alum Rock, Calif., involving six schools; they are proposing this year, I believe, to go to 12 to 18 schools.

There are planning grants with New Rochelle, as I understand it; Rochester has had one, I believe, and decided not to go forward. There were discussions with Dayton and Milwaukee. I am not sure any grants exist with them. Those are proceeding with consideration. But I again would say that I do think that the Institute, the Council will have to make judgments before those can be continued.

Mr. PEYSER. I would like to put in a special plug on this question at this point, that obviously, based on what you are saying, there are now new voucher plans going into being until the council itself would be appointed. Is it correct to say that there will be no activity on your authority at this time to put into being any new voucher plans until the council is actually appointed?

Dr. GLENNAN. This is correct.

Mr. PEYSER. So there will be, I gather from what you are saying, a continuation of existing plans.

Dr. GLENNAN. The Alum Rock program is forward-funded. They have funds to go through the next school year at the current level under any circumstances.

If those responsibilities are delegated to me under the authority of the Economic Opportunity Act, I have asked for a ruling from our general counsel as to what the responsibilities of the National Council of Education on Research ought to be for delegated programs.

I don't know what the answer is to that, frankly, but I do think—and let me make this point—to the extent that actions taken under that delegated authority imply outyear commitments on the part of the Institute, it seems to me they ought to be reviewed by the Council.

Mr. PEYSER. The New Rochelle one, which is in planning, would obviously go no further until such time as the Council was appointed?

Dr. GLENNAN. I think that is right.

Mr. PEYSER. Do you feel sure that is correct; New Rochelle would not suddenly be in a voucher plan starting next September if there were no further discussions?

Dr. GLENNAN. Well, they are not in a voucher plan with any commitment or even policy judgment that there is long-term support from the Institute.

Mr. PEYSER. They won't be in it unless the Institute gives them the money?

Dr. GLENNAN. Right now those programs are being run by the Office of Economic Opportunity. If they were to make that grant now, I think they could do that. That is within their authority.

What I am saying is: If the Institute would make no commitment to continue that grant—that is, to add money out-year without Council approval——

Mr. PEYSER. They would have to be funded for 1974?

Dr. GLENNAN. But they would use 1973 moneys which are appropriated to Office of Economic Opportunity.

Mr. PEYSER. At that time, if we want to know more about voucher plans, we are still dealing with OEO?

Dr. GLENNAN. Yes.

Mr. PEYSER. And so OEO technically could fund a New Rochelle plan if they wanted to?

Dr. GLENNAN. That is correct.

Mr. PEYSER. Even though the indication from OEO's statement itself is that they are not doing anything with it, that the whole thing is being transferred to NIE?

Dr. GLENNAN. It will be transferred to NIE but, before that, obviously——

Mr. PEYSER. I don't want to launch into any whole new program. I won't go through that.

Mr. BRADEMAS. Will the gentleman yield on that point?

Mr. PEYSER. Yes.

Mr. BRADEMAS. I think the questions Mr. Peyser has put are very perceptive. I am still not clear on the relationship between those OEO moneys, and the NIE planning process, and your own budgetary process. Because if those moneys are going to be brought over and administered by you, whether the Council has anything to say about it or not,

it seems somebody has made a decision with respect to $23.9 million, some 15 percent of your proposed NIE program budget of $150 million for fiscal 1974. That is a pretty important policy decision.

Dr. GLENNAN. This point I have tried to make, and I will make it again. How that money is spent is a policy decision to be decided upon by the Council. What I would say to New Rochelle, if they get a grant from Office of Economic Opportunity is that they ought to be darn sure that they think this council will make a judgment that it will be continued when it gets over to the NIE.

There is a separate authority at this point in time, and that authority will be separate until the 30th of June. On the 1st of July, if there is an appropriation, moneys will have been appropriated to the Institute. And how those moneys are spent in 1974 appropriations seems to me to be subject to the Council's——

Mr. BRADEMAS. I hope you don't get into a conflict with OMB on how some of the moneys are spent, even as we in Congress do.

Dr. GLENNAN. We have a wonderful time with the various kinds of conflicts that are potentially there. What the Council says and what Congress says and what I say—that is the policymaking process.

Mr. PEYSER. In your field initiated studies, specifically where it says researchers have been asked to submit proposals on virtually any topic promising to extend knowledge about American education, colleges, universities, and so forth, specifically what are we talking about there?

In other words, if I were a university today, what type of application for grants would I be making? And I take it these are programs that you are going forward with now, because you are asking for application grants.

Dr. GLENNAN. These are supposed to be that small part of the Institute's total activities which are devoted to quite fundamental research; and, in talking with researchers around the country, we are very clearly given to believe that one of the problems in the past with the Office of Education is that there is a perception that there is a hidden agenda in this research program. We have been doing our best to remove that perception.

We aren't after curricular development or after environmental education per se. We are seeking the best ideas from the field. We do provide them with guidance in the following way:

We have established a set of panels, and those panels give sense of the interest of the research. There is a panel on governance and school organization, on the development of the human being; on learning and instruction. There is a panel on evaluation, measurement, and goals.

The researcher can try to read between the lines of how we structured those panels to get some notion of what we are looking for. We tried to construct them so they covered everything, but they do give some sense of major emphasis.

Mr. PEYSER. Are you getting applications in now?

Dr. GLENNAN. We have not received any applications to speak of, but we have received an enormous number of inquiries. The announcement was made on the 15th of January, and we have given them about 6 weeks to prepare a proposal. So we expect them in by the 1st of March.

Mr. PEYSER. And then these will be funded and acted upon, is that correct?

Dr. GLENNAN. As they come in, there will be a peer review system. They will pass on the technical and educational merits of the proposals and recommend to the Institute those which should be funded, and the funding will actually occur sometime around the middle of June—between the 1st and 15th of June.

Mr. PEYSER. Thank you, Mr. Chairman.

Mr. BRADEMAS. Mr. Sarasin.

Mr. SARASIN. I have no questions. Thank you, Mr. Chairman.

Mr. BRADEMAS. Mr. Glennan, let me ask you a question that derives from your colloquy with Mr. Peyser. We were talking about the question of the voucher programs coming over from OEO. You are going to be having programs transferred from OEO apparently as well as from the Office of Education.

How much free money, how much new money, are you going to have to work with, given what appears to be the continuation of certain existing programs from those two agencies?

Dr. GLENNAN. Well, again the Council can make judgments about those continuations. If we assume that we will continue to support what is transferred. It is our best guess that somewhere around $50 to $60 million of that $162 million is available for allocation to programs that would be subject to the choice of the Institute.

Mr. BRADEMAS. You can't really have it both ways by saying you can't give us an answer because the Council isn't there but, on the other hand, decisions are obviously——

Dr. GLENNAN. We will try to give you an answer on where there are continuations and where we felt there were essentially ongoing activities that we had on the basis of past government commitments we have some obligation too.

Mr. BRADEMAS. I think that would be helpful. And, beyond that, you must have some idea how you are going to spend the extra $50 or $60 million if the Council does not get here for a while.

Dr. GLENNAN. That is in 1974.

Mr. BRADEMAS. I understand, but I have learned to be pessimistic about all of you.

Dr. GLENNAN. We will, I suspect, provide to you fairly soon a justification document for the appropriations. I am not sure when that is due to be submitted. About the third week in February, I believe. And that will have, against very broad kinds of headings, a set of allocations.

We have been trying to be somewhat consistent with the categories of interest that the Congress had in charging us. We talked about a set of basic studies of research and development and marketing systems and some allocations there. But really we have a long planning process to go forward with before we would recommend to the Council how that money ought to be spent. We are a little behind the power curtain at this point.

Mr. BRADEMAS. What is the purpose of the National Institute of Education as you understand it?

Dr. GLENNAN. I certainly think that, and as I have been saying rather continually in my speeches, the purposes seem to be very clearly set out in the preamble or the purposes of this act, and they seem to be

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very good purposes. The categories deal with solving major educational problems as perceived by the public. And, second, a mode which is the creation of a strong R and D system, a vital system and to develop a knowledge base that will permit future innovation and reform in education.

Mr. BRADEMAS. I am not trying to trap you, but I note that in section 405 of the statute, the first sentence of which is "Congress hereby declares it to be the policy of the United States to provide to every person an equal opportunity to receive an education of high quality" et cetera. Now, I say that because I notice that in the guidelines that you have sent out, unilaterally, without the Council, both in connection with your small grant program and in connection with your field-initiated research, there is no mention of the specific purpose which Congress enunciated in the first sentence of the authorizing provision. Is there some reason that you have ignored that?

Dr. GLENNAN. Probably because we jumped to the purposes, the means by which you intended to achieve those purposes. I think the Congress intended to achieve those purposes.

Mr. BRADEMAS. I would be more comfortable—and again you will see why I want to see that Council established—I would be more comfortable if there were some passing nod at the clearly articulated fundamental purpose of the Institute.

Let me turn to another question. What is the relationship between NIE programming and the new fund for the improvement of postsecondary education?

Dr. GLENNAN. At present, there is no specific relationship, but we have had discussions with staff members of the fund.

Let me tell you my understanding of what the fund is intended to do, both by the Congress and by the administration. I see it as a seed money activity, as providing kinds of opportunities to innovate, to try new things, to create new programs within the postsecondary area. Clearly the Institute has a strong interest in postsecondary activities, and what we would hope to do is to work with the fund to use those experiences to learn.

The fund will attempt to evaluate what is going on, but I think we might enhance the resources used for evaluation of research on those kinds of experiments.

Mr. BRADEMAS. You are, of course, also authorized to undertake the support of experiments?

Dr. GLENNAN. Quite right.

Mr. BRADEMAS. I am trying to understand what kind of delineation of responsibilities you have in mind, and what you just said indicates you put the cart before the horse.

Dr. GLENNAN. Maybe I don't understand what you mean by that.

Mr. BRADEMAS. If you are going to be evaluating NIE experiments undertaken by the fund for improvement of postsecondary education, what do you contemplate is the first principle governing NIE's relationship to postsecondary research?

Dr. GLENNAN. I think what we would try to do is: As we look at what we want to do in postsecondary education or higher education, we try to make some judgments about what the crucial issues are that the Institute should be examining. For example, the kind of things which continually come up in our planning activities is the problem of access,

the problem of trying to get higher education or postsecondary education services to a wide range of audiences.

If, in fact, that were to be a priority concern within the Institute in postsecondary education, I think we ought to look at the fund and understand whether the things they are carrying out provide the kind of experiences that we could look at to learn something about that set of problems. If their priorities happen to be moving in different directions, then I think it is quite within the authority of the Institute to propose carrying out specific experiments dealing with that set of issues. I think we should not be trying to do the same things as the fund.

Mr. BRADEMAS. That makes sense to me except that I suggest for your consideration that when you read back your response to my question, the same response could have been given by whoever the new director of the fund for the improvement of postsecondary education is going to be. Do you see my problem?

Dr. GLENNAN. No; I think that the fund, at least as I understand it—and I am not a devotee of that law—is clearly to support operations. It is clearly to support programs. It was not clearly intended to be a universal learning experience, a knowledge-creation thing. It is supposed to do things in one place.

It would seem to me that the real difference between the fund and ourselves is that we are looking for findings. We are looking for things that are useful elsewhere. And to the extent that those experiences at that one place can help us toward those generalizations, then we ought to be concerned with them.

Mr. BRADEMAS. Surely you are not suggesting that the fund is not going to be a source of concepts and experiences that can be generalizable?

Dr. GLENNAN. That is exactly what I am suggesting. Our job is to try to understand to what extent they are generalizable and to what extent they are peculiar to the site. That could be our job, I should say.

Mr. BRADEMAS. Well, I suggest, at least for your consideration, that a much more sophisticated analysis needs to be made in respect to the relationship between whatever the NIE proposes to support in the post secondary field and whatever is proposed to be supported under the fund. Because I can see a great deal of possibility of unwarranted duplication and overlap there.

Dr. GLENNAN. Yes, surely. And I can assure you that so far there has been a cordial and interactive kind of activity.

Mr. BRADEMAS. As Mr. Marland has just arrived, let me put one question to you while he is here so I am not putting this question to you in his absence. How do you see the relationship between your own role and the Office of the Assistant Secretary? Are you getting along all right with each other?

Dr. GLENNAN. I think so. We have, as we agreed before we started this whole thing—had a number of disagreements and felt that was helpful.

I take a major role of the Assistant Secretary to be the coordination of the development of policy and programs in the two separate parts of the division, not the making of that policy per se but to make sure that somehow things fit together, and I think that role is evolving and evolving in a useful way that provides a hope that what we do will

be useful to the Office of Education and that the Office of Education can give us some sense of issues that they feel are crucial to understanding and so forth. It is a mechanism for coordinating the planning efforts.

Obviously there are many other things the Assistant Secretary does but, in terms of my relationship with them, that is the major one. And it has been a comfortable relationship so far and I think not unduly confining relationship so far. He has been very good in allowing me to jump on him.

Mr. BRADEMAS. Thank you very much, Dr. G nnan. This has been most helpful to members of the subcommittee, I am sure. And I want you to know that I hope you will remain with us while Secretary Marland shares his views with us.

I want to assure you of what I said at the outset: this subcommittee wants to help you do the most effective job possible. But I have already given you some of my concerns that I think stand in the way of our working carefully and effectively with you.

We are very pleased to have with us this morning the distinguished Assistant Secretary for Education, Dr. Marland.

Dr. Marland, we are happy to have you with us again and look forward to hearing from you.

STATEMENT OF DR. SIDNEY P. MARLAND, JR., ASSISTANT SECRETARY FOR EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Dr. MARLAND. Thank you, Mr. Chairman. I have prepared a brief statement that I would like to present to the committee, if you will, and then continue with interrogation at your pleasure.

Mr. Chairman and members of the committee, I appreciate this opportunity to discuss with you our progress on organizing the Office of the Assistant Secretary for Education. This office was created by the Education Amendments of 1972 which established an Education Division in the Department of Health, Education and Welfare.

The law provides that the Division be composed of the Office of Education and the National Institute of Education, and be headed by an Assistant Secretary for Education.

President Nixon sent my nomination for this new post to the Senate on August 3, the appointment was confirmed on October 14, and I was officially sworn in on November 1.

On January 2, then-Secretary Richardson signed a delegation of authority establishing the Office of the Assistant Secretary. That delegation was published January 9 in a Federal Register notice describing the principal functions and offices of the unit. With your permission, I would like to insert a copy of this document at this point in the record.

The chairman will recall I assured him after Secretary Richardson approved this in the office, he would receive copies of that, and that was done. And I think that would be appropriate for the record.

Mr. BRADEMAS. Without objection that will be inserted.

(The document referred to follows:)

[From the Federal Register, Jan. 9, 1973, Washington, D.C., vol. 38, No. 5]

OFFICE OF THE SECRETARY

ASSISTANT SECRETARY FOR EDUCATION

Delegation of Authority

The Assistant Secretary for Education serves as head of the Education Division which consists of the Office of the Assistant Secretary for Education, the Office of Education, and the National Institute of Education. Parts 2 and 7 of the Statement of Organization, Functions and Delegations of Authority for the Department of Health, Education, and Welfare will continue to be used for the Office of Education and the National Institute of Education respectively. Part I is hereby amended by addition of a new Chapter 1K, as follows:

SECTION 1K.00 *Mission.* The Assistant Secretary for Education is responsible for the general direction and supervision of the Education Division, provides leadership for the education activities of the Department, and serves as the key spokesman and advocate for assuring that the Department provides professional and financial assistance to strengthen education in accordance with Federal laws and regulations. In addition, serves as the principal advisor to the Secretary on education affairs.

SEC. 1K.10 *Organization.* A. The Office of the Assistant Secretary for Education is under the supervision of the Assistant Secretary for Education who heads the Education Division and reports directly to the Secretary.

B. The Office of the Assistant Secretary for Education includes:

Assistant Secretary for Education.

Deputy Assistant Secretary for Education.

Deputy Assistant Secretary (Policy Development).

Deputy Assistant Secretary (Policy Communication).

Director, Fund for the Improvement of Post-Secondary Education.

SEC. 1K.20 *Functions.* 1. "Assistant Secretary for Education" is the principal officer in the Department responsible to the Secretary for the direction and supervision of the Education Division; and for the coordination and general supervision of education activities wherever they are performed by the Department. Provides direct leadership for the administration of the Emergency School Aid Act.

2. "Deputy Assistant Secretary for Education" serves as the principal assistant to the Assistant Secretary for Education and acts for him during his absence or inability to act, or if a vacancy occurs in the position of Assistant Secretary for Education. In addition, provides executive secretariat services for the Education Division.

3. "Deputy Assistant Secretary (Policy Development)" coordinates the development of general policies in the Education Division including the formulation of program and legislative initiatives. Provides guidance in the determination of priorities, objectives, and goals fo reducation including the formulation of recommendations to the Assistant Secretary. Provides articulation among components of the Division to insure effective implementation of short- and long-term policy decisions.

Coordinates 5-year plans, program evaluation, budget submissions, and operating plans for the Assistant Secretary for Education. Monitors research and statistical activities in the agencies comprising the Education Division, as they relate to policy development. Coordinates budget construction within components of the Division. Advises the Assistant Secretary for Education on key implementation issues. Develops budget positions and testimony for the ASE for presentation before OMB, Congress, and the public.

Recommends program and policy issues for analysis, coordinates the necessary studies, and actions to be undertaken within the Education Division, giving particular attention to articulating with National Council on Educational Research.

Coordinates program information systems used at the Assistant Secretary for Education level and within the agencies comprising the Education Division. Develops other major administrative proposals requested by the Assistant Secretary for Education with particular attention to Administrative initiatives.

4. "Deputy Assistant Secretary (Policy Communication)" represents the Assistant Secretary and interprets Federal education policies to the education

community and the general public. Maintains a capability for monitoring the activities of the education community to provide timely accurate intelligence on their program and legislative objectives, and to assure that their views are reflected in the policymaking process of the Division.

Is responsible for the development and implementation of information strategies to assure that the programs and policies of the Education Division are effectively communicated to the education community and the general public. Supervises all activities of the Division affecting relationships with the education community including appropriate State agencies.

Provides the principal support and guidance to the Federal Interagency Committee on Education. Participates in shaping the input into policy development and implementing process as it pertains to the development of legislation. Advises and consults with the Assistant Secretary for Education and the public information offices of the agencies comprising the Education Division on new policy initiatives, the setting of priorities and the provision of policy guidance to Education Division agencies' public information offices. Directs Federal Interagency Committee on Education, consistent with Executive Order No. 11185.

5. "Director, Fund for the Improvement of Post-Secondary Education" is responsible for the planning and administration of the Fund including the preparation of program and budgetary plans and supervision of staff necessary to implement those plans.

Dated: January 2, 1972.

ELLIOT L. RICHARDSON,
Secretary.

Dr. MARLAND. In all of our actions regarding the establishment of this office, we have been mindful of several concerns expressed by the Senate Committee on Labor and Public Welfare at the time of my confirmation hearings.

We also gave careful consideration to your views, Mr. Chairman, as expressed before that committee. The subsequent committee report on the nomination has been carefully considered and has provided guidance in the establishment of the office.

The committee advised a limitation on the number of positions "necessary to provide general guidance for the policymaking and implementation activities carried out in the Office of Education and the National Institute of Education." We have followed this guidance by developing a staffing plan for 55 persons which provides the capability for this general direction.

In preparing this staffing plan, we have sought to avoid duplication of function in the structure of the Education Division. Rather, we have attempted, I think successfully, to design staff offices in the Office of the Assistant Secretary which will increase communications both within the Education Division and with the public at large.

These staff offices are further intended to provide an opportunity for planning and analysis activities free from the day-to-day problems of program administration.

Finally, we are organizing a unit to provide the necessary coordination for those activities which are being pursued by both component agencies of the Education Division, thus enhancing articulation among these activities, as Dr. Glennan's testimony implied.

To implement these functional goals the Secretary has approved an organizational plan calling for two deputies in addition to a principal deputy in my immediate office. These two deputies, one for policy development, the other for policy communication, together with the two agency heads, the Director of the Fund for Improvement of Post-Secondary Education, and my principal deputy, will constitute my advisers for determining general directions and policies for the Education Division.

The Senate committee also advised the Assistant Secretary to "take greater responsibility for the administration of the Emergency School Aid Act." This is a major program involving several hundred people, and because of the other duties assigned to the Assistant Secretary and the staff limitations imposed, I have delegated this administrative responsibility to the Commissioner of Education.

However, because of the special responsibility highlighted by the Senate committee and my own personal interest in the success of the emergency school assistance program, I intend to designate a senior member of my staff to keep me advised regarding activities of this most important new program.

It is my intention and my desire to conduct the Office of the Assistant Secretary in such a way as to respect fully the statutory requirements of the Office of Education, the National Institute of Education and the Fund for Improvement of Post-Secondary Education and to protect their autonomy as separate agencies within the Education Division established by the Education Amendments of 1972.

In the long run, the creation of the Education Division will strengthen the house of education within the Federal Government and provide the mechanism for leadership and support for the improvement of education throughout the Nation.

To help realize this potential, I view the Office of Assistant Secretary for Education as a promising instrument for formulating Federal education policy and relating effectively with Congress and the administration in pursuing a more comprehensive response to the problems of American education.

That concludes my prepared statement, Mr. Chairman. I would be glad to entertain questions.

Mr. BRADEMAS. Thank you very much, Mr. Secretary.

Mr. Secretary, I wonder if you could outline the breakdown of positions on your staff with respect to your responsibility, under the statute, to operate the Emergency School Aid Act, as well as what is apparently to be your responsibility to administer the fund for the improvement of postsecondary education.

Dr. MARLAND. Yes, those figures are still loose, Mr. Chairman, because we have not finalized a strict organization chart.

It will depend somewhat on the individuals we are able to attract to that office. But broadly speaking of the 55 personnel authorized, approximately 30 will be professional people and the other will be backup people.

Of those 30 there would be roughly the following deployment. The immediate office of the Assistant Secretary would include physical management, which would include what we call the executive secretariat our bureaucratic way of keeping papers shuffled in an orderly way throughout the Division, including correspondence with Congress—and the internal administration of the Division. It would be about seven professional people in the immediate office.

Our largest program in terms of numbers would be what we call Office of Policy Development. That would be headed by a Deputy. That would have about 20 or 21 total people, about 12 or 15 of whom would be professional people.

They would be scholars of various fields, particularly people skilled in policy and planning techniques influencing the full Division.

Finally, a third component which we would call the Office of the Deputy for Policy Communication Office. His job would be to relate to the total universe of education, the professional organizations, media, Congress, and so on. He would have approximately four professional people.

Another five people in the organization called FICE come under the Deputy for Policy Communication consistent with the FICE charter spelled out by Executive order. FICE means, Federal Interagency Committee on Education. And they reach across all Government. Some 26 Federal departments and agencies are embraced by FICE.

That, I believe, accounts for about 30 individuals of the professional level. They would have corresponding secretarial and similar backup people.

Mr. BRADEMAS. I would be grateful if you could make available, Mr. Secretary, to the subcommittee as soon as you can, this breakdown on staffing. One reads that you are after 99 positions—and I am aware that you responded that you are speaking of a couple of other responsibilities—but this situation and the size of this office quite clearly was not contemplated by the Senate Labor and Public Welfare Committee reporting on your confirmation.

Dr. MARLAND. Let me perhaps clarify that. Ninety-nine is a figure that we set aside months ago, the original recommended figure from the management group in the Office of the Secretary. That was corrected to be 55. The figure you may be referring to would be the additional present now under the authority for the Fund for the Improvement of Post-Secondary Education which has been placed in this office.

At the present level, the fund has 15 positions which would add to the 55 and make that 70. We see the fund's staff growing over the next several years in response to increased support—hopefully to roughly 20 or 25 people. That would be the projected number above 55.

They would not be within the Office of the Assistant Secretary. They would be a group operating as part of the Division of Education.

Mr. BRADEMAS. I suggest to you there is some sensitivity on this matter as I am sure you are aware. What is the grade level of your deputy?

Dr. MARLAND. It is recommended as an executive level V. The other two levels are recommended as GS–18.

Mr. BRADEMAS. The reason I ask that is that I am aware of your privately stated concern to comply with the intent of Congress.

As you know, I have been very critical of you on grounds that you on a number of occasions have not complied with the intent of Congress. I notice in this connection, unless I am mistaken—and I am sure if I am you will straighten me out—that grade V is the same as Dr. Glennan's grade. You know that that takes on a certain significance in the minds of legislators who worked on this legislation.

I am somewhat astonished that you would move ahead to establish, or to call for the establishment of, a Deputy Commissioner at level V, when the Conference Report on the Education Amendments of 1972, reads, with respect to the management of the Office of Education:

The Senate Amendment established the position of Deputy Commissioner of Education to be appointed by the President with the advice and consent of the Senate.

The House Amendment had no similar provision. The Senate recedes.

(b) The Senate Amendment provided that the Commissioner of Education was to be compensated at the rate of a Level IV in the Executive Schedule and that the Deputy Commissioner was to be compensated at the rate of a Level V in the Executive Schedule. The House amendment had no similar provision. The Senate recedes. The conference agreement described in "Education Division" above describes the details of the conference action.

Now, it would seem to me that a fairminded reading of that language would suggest that you are doing something you are not supposed to be doing.

Dr. MARLAND. Let me try to respond as thoughtfully as I can. I am mindful of the language, Mr. Chairman. The language was speaking of a totally different set of circumstances as it describes the Commissioner of Education having a Deputy Commissioner of Education and a wholly different structural format from that which we are describference committees and did not miss a single session for 11 weeks, you ing today.

Mr. BRADEMAS. Not true. I say as one who sat in those conferences and did not miss a single session for 11 weeks, you are not accurate.

As you know, the final resolution of the concern about the Division of Education headed by a Commissioner originally proposed in the Senate bill, was, in effect, to change the name of that upgraded Commissioner of Education as proposed by the Senate to read "Assistant Secretary."

So I do not think you can accurately say that there is a significantly changed set of circumstances. The reason I mention this is that we hope there will not be what apparently is a continuing effort, and I speak for myself here, to go around the intent of Congress. You will recall that a continuing theme on the part of Senator Dominick of Colorado, who was a key Senator on this matter, and those of us on the House side of both parties, was that we did not want to build up further levels of bureaucracy.

I beseech you therefore, Mr. Secretary, to get your lawyers to go back and take a look at the conference report and at the history of the conference so that you are not getting yourself once more into what I respectfully suggest is another head-on collision with the expressed intent of Congress.

I take you in good faith, Mr. Secretary, when you say that you want to strive ot comply with the intent of Congress. So I offer that as an admonition.

Dr. MARLAND. Let me be sure that I am reading you specifically.

Mr. BRADEMAS. I do not think you have statutory authority to appoint a deputy to yourself at grade level V. That is what I am trying to say in plain English. That is illegal under the intent of Congress and it clearly is not in keeping with the intent of the Republican and Democratic champions of the Education Amendments of 1972, who intended that the Director of NIE be on par with the Commissioner of Education.

So, if you really want, in good faith, to try to conform with the intent of the members of the authorizing committee, you do not want to put us in the position of chasing over to the Appropriations Committee all the time because we find you running around the back door to try

to do what you are not supposed to be doing. We will do it if we have to.

In your own interest I am trying to be helpful to you to save you continuing conflicts before this committee.

Dr. MARLAND. Just so the record may show, Mr. Chairman, I deplore any implications that we have run around this committee or under the table or over the table to other committees to subvert the sober work of this committee including the labors which brought forth these amendments.

I assure the Chairman we believe very firmly in admonitions concerned with keeping this a nonbureaucratic structure. It does require powerful talent of a limited number of very able people to do the work that Congress has laid out for us to do. Namely, to lead education in the United States and be the principal officer of a vast responsibility.

I will struggle against anything that leads us to a bureaucratic structure.

Mr. BRADEMAS. I am reassured to hear that. Mr. Secretary, let me turn to the second issue in this respect. I believe, in fact I assert, that you are ignoring the clear intent of the Congress in having failed months after the establishment by law of the National Institute of Education to appoint a National Council on Educational Research, which is mandated by the statute.

It isn't a matter of whether you want to do it or whether you would like to do it. You have got to do it if you want to keep the law.

You and I had this same colloquy in October, 1971. I told you then you were breaking the law when you failed to follow the statutory mandate of Congress to appoint an Advisory Council on Environmental Education.

Before you came in, I read from letters to Secretary Designate Weinberger, from Richard Myshack of Minnesota and Edward Weidner of Wisconsin, both very able men, resigning from the Advisory Council on Environmental Education. They complained that it had taken 13 months before the Council was able to meet after the law had been signed. So here we are back at the same old stand again.

The statute creating the Institute I think was signed into law in June of last year. You know, Mr. Secretary, as I said to Dr. Glennan and I must repeat it here, you had solid bipartisan support for President Nixon's National Institute of Education.

Nobody can claim this has not been the case. Why do you want to undermine all of the hard work that has gone into getting this enterprise off the ground by not obeying the law? And Dr. Glennan has been put in a very embarrassing posture of having to go ahead and make what even he this morning has agreed are policy decisions, substantive policy decisions, which he is not supposed to be doing.

The next witness to appear before this committee will even talk to us about the possibility of injunction against the director for breaking the law.

Why do you want to put yourself in that posture? This was not necessary. We certainly have not been firing at you. All we have done is to try to say what a fine thing the NIE is and how we want to help you make it go.

Once again, Dr. Marland, you are in a position of standing in violation of the clear statutory mandate of the law. Even putting that to

one side for a moment, I should have thought after all of the troubles you have had up here, you would want to try to obey the law just to get along with this committtee. We would not have to bring you in here and harpoon you all of the time for flagrant contempt of Congress if you would only obey the law.

I don't understand it. Am I being unreasonable in that assertion? This is February. The law was signed last June. Where is the Council?

Dr. MARLAND. Mr. Chairman, I assure you I don't enjoy coming in here and being harpooned regularly.

Mr. BRADEMAS. I would rather come in and have you say what a great job you are doing and congratulate you on doing the job.

This is supposed to be a law and order administration.

Dr. MARLAND. I am sure if Dr. Glennan has explained the view of his circumstances, he has explained the extreme duress under which he and I have labored the past several months.

I am sure that the chairman knows when he speaks of me personally as appearing to be blocking the naming of a committee, he realizes this is not in my jurisdiction.

I think that it would be fruitless to cite the numbers of measures we have taken to expedite the naming of this committee. I expect that the committee will be named, as perhaps Dr. Glennan has told you, almost immediately.

We have been expecting that the committee would be named for some weeks now. There have been a number of happenings that have caused delays, apparently. This is not a committee named by the Assistant Secretary or the Secretary. As for accepting its presence, let me assure you that my testimony a year ago urging the existence of such a committee stands just as strongly as it did then, that this should be a powerful committee and it must be made up of distinguished Americans. I look forward eagerly to working with them and so does Dr. Glennan.

The fact that we do not have a committee is regrettable. On the other hand, NIE is charged by Congress with performing certain functions right now. NIE has been designated as the recipient of a number of on-going programs designated by Congress to be administered by NIE.

The Director of NIE finds himself between the rock and hard place when Congress says, "Put these programs into place—programs such as experimental schools, the labs and centers program, and dissemination activities.

These things had to be done. People were in the field performing work for the U.S. Government, and the integrity of the National Institute was at stake.

The authority as viewed by our attorneys permitted Dr. Glennan to make tentative provisional regulations and to alert the community of scholars that we were about to introduce regulations and offer grants in the anticipation of the very early naming of the NIE council.

The programs that have been sustained and on-going included no new starts. They are merely continuation of programs which by law he inherited and had to be sustained. The funds for the NIE and general authorizations of appropriations require this year that they be expended during fiscal year 1973, and therefore, they cannot be dallied with. We cannot invite the crunch of having those programs ad-

ministered loosely and irresponsibly in the last few days before the close of the fiscal year.

I believe Dr. Glennan acted responsibly in proceeding with the tentative preliminary issuance of publications and regulations subject to the confirmation and approval of his policy board just as soon as it is in place. As far as I can see no money for new starts will be expended until that policy board is in place.

Mr. BRADEMAS. Well, Dr. Marland, that is a marvelous statement and wonderful exercise in logic. Don't try to blame Congress for putting Dr. Glennan between a rock and a hard place.

Dr. MARLAND. I am not blaming Congress, Mr. Chairman. I am saying he has been placed there.

Mr. BRADEMAS. By whom?

Dr. MARLAND. He has been placed there by the circumstances of being expected by Congress to perform certain functions.

Mr. BRADEMAS. That is not true, and you know it is not true, and I will tell you why it is isn't true.

I am always struck by the way you carefully read legislative history when it conforms with value judgments you would like to make, and how you ignore it when it doesn't.

Have you read the statute authorizing NIE? I wish the executive branch had its own "right to read" program so you could understand the statute.

The statute does not say that there may be appointed a National Council on Education. It says it shall be appointed.

You say, "It is not my fault it isn't appointed."

Dr. Glennan says, "Gee, it is not my fault."

Whose fault is it? We don't have the authority to appoint that Council. So don't complain to us that you have to make decisions in violation of the statutory mandate for a Council that Congress says, (*a*) should be appointed, and (*b*) make judgments on the course of policy.

Why don't you pick up the phone and call the President of the United States and say, "Mr. President, they are saying up there that you are breaking the law because you have not done what the law requires. Please obey the law."

That is all I am asking. Don't do us any favors. Just obey the law.

Dr. MARLAND. I do point out, and perhaps Dr. Glennan added to this in his testimony, that the congressional language under which our attorneys have given their indication of endorsement to this present tentative arrangement, reads as follows. I am reading from Senate Report 798 on Public Law 92–318, second section 203, 1972:

> During fiscal year 1973, the Council along with the Director will be developing policies and procedures for NIE.

We expect this will happen during 1973, to insure continuity of programs previously operated by the Office of Education.

Mr. BRADEMAS. No quarrel on that.

Dr. MARLAND. We expect that Director of the NIE during fiscal year 1973, these are Congress words, Mr. Chairman, to be responsible for providing direction and leadership to these programs and projects.

All we have done so far is to sustain the existing pattern of program funding, short of any new starts, under this authority as cited here.

Mr. BRADEMAS. Where did it say that you have any statutory right to sustain the existing pattern of funding authority short of any new starts? That is certainly not in the statute, and you can show me where it is.

Dr. MARLAND. Our own discipline would keep us from new starts, Mr. Chairman.

Mr. BRADEMAS. I didn't ask you about new starts. Let's stand back and reflect on where we are here. What I asked was this: The statute I am looking at says—I am looking at page 94, Public Law 93-218, June 23, 1972:

> The Council shall establish general policies for and review the conduct of the Institute.

The statute does not say, "provided that the Director can do anything he wants to do until a council is appointed." It does not say that. That, in effect, is what you have just told me, Mr. Secretary.

I think you would agree with that. There is no provision in the statute that allows Dr. Glennon to go ahead and make policy decisions—which prior to your coming, he agreed he was doing—until the council is established.

You are in violation of the law. I am not criticizing him, and I am not attacking you personally, Dr. Marland. What I am saying is, why don't you stir things up down there and simply do what the statute requires be done? I don't understand it.

Dr. MARLAND. I think I am hearing you say, Mr. Chairman, that we are acting irresponsibly——

Mr. BRADEMAS. That is correct.

Dr. MARLAND (continuing). In sustaining programs that have been in place in some cases for years, that have been transferred to NIE. The chairman will recall that I at that time as Commissioner of Education stepped aside completely, absolutely divesting myself on July 1, following the June 23 law, of any relationship with programs at NIE.

That was a conscious act. There was no Director, there was no staff, there was no council, there was nothing except a set of programs that had to be sustained in the United States totaling in the neighborhood of $30 million to $40 million.

Mr. BRADEMAS. I have not said that. I am not going to let you put words in my mouth. What I am trying to get across is this: I am not talking about specific programs, whether they are right or whether they are wrong. That is not the point at issue here.

Dr. MARLAND. I had not quite finished my statement, Mr. Chairman. I was not putting words in your mouth. I am trying to hear what you are saying to be sure I comprehend it and then I am turning to say further what the conditions actually were historically.

There was no NIE. There was no council. There was no Tom Glennan. There was no Emerson Elliott in place. The programs, in response to your admonitions, were completely divested on July 1 of the Office of Education.

Somebody had to sustain them. A small task force was put in place with no authority at that time other than that which the Secretary delegated to them to advise on the continuation of these programs. They had to be continued as of July 1. We could not simply have a system of research at a level of $30 million or $40 million throughout the country suddenly brought to a halt.

Mr. BRADEMAS. Now let's pause on that for a moment. You simply assert that as a self-evident fact. The President of the United States seems to have no difficulty in halting the expenditure of funds that Congress has appropriated for a program he does not happen to like. But you are in here making the case today that even though you are spending money for certain policies, absent the appointment and action of a policy council mandated by Congress, you can go right ahead and do so if you want to.

I am not saying that programs are good or bad. Why couldn't you have said:

> Wait a minute, Congress says we have to have a council. We do not have a council, therefore, we do not have any right legally to spend money because that involves making policy decisions.

Dr. MARLAND. I see what you mean, Mr. Chairman, and I have been wrestling with that dilemma for 6 months or 7 months.

Mr. PEYSER. Mr. Chairman, if you would yield for a moment.

Mr. BRADEMAS. Yes.

Mr. PEYSER. I think the point has been well established of the problems of Dr. Marland and the problems you are presenting of the council.

I tell you what I am struck with through the dialog going on here. Knowing your personal drive and concern for education which has certainly been well demonstrated over the years, and your talents, if you were sitting in Dr. Marland's position, I have a feeling that you would be doing exactly the same thing in the interest of education and the furthering of it.

I think he wants the council, and I think that I am going to raise my voice and holler on this issue of no council as well.

But, I do not think this problem is with Dr. Marland or Dr. Glennan. I think they are trying to take a very difficult situation and keep an educational process going. I think you would too.

Mr. BRADEMAS. I think the point that the gentleman from New York has made is a very fairminded one. But, let's look back, let's step back for a moment from this particular concern about the failure to appoint the national council and look at the situation in which you now have yourselves.

We have not put you in this position. You got yourself in this position. We worked hard on this legislation for a couple of years. We tried to build up a core of strong support in Congress, in the House and Senate, on the part of Republicans and Democrats, for first-class high quality research in education.

I have been on this committee for 15 years, and I have never worked so hard on anything to try to make it bipartisan. I suggest to you that the failure of the administration, of the White House, of President Nixon—who wrote me a very gracious personal letter thanking me for my help on this—to appoint this high level council, to simply follow the law, is jeopardizing all of the effort that has gone before in Congress.

I have a hard time understanding why he would want to put you in the position that he has put you in, and, therefore, play right into the hands of those who say that the National Institute of Education will either make no difference or that it will fail.

I recall to your memory, Mr. Secretary, that an effort was made in the House, you will remember it, to kill the NIE and the vote was

fairly close. If the National Institute of Education should go down the drain, it will not be the fault of the members of this committee who worked hard on it.

It will be right on the lap of Richard Nixon. So, I hope that if I may borrow a phrase from the Governor of Alabama, that using your good offices, we can send him a message.

Dr. MARLAND. I am sure, Mr. Chairman, that I do not have to defend President Nixon here, but I will say this, that he personally is undoubtedly mindful of this very serious problem, that he personally, I am sure, knows of the complications and accidents of action that have delayed the naming of this Council.

I am sure he in no way seeks to defy the intent of this law personally anymore than I do. I think the machinery of government leaves a great deal to be desired in getting the Council named as you pointed out in the past.

I well remember the scolding that I took at your hands in terms of the Environmental Education Act, and I said to Tom Glennan, "Let's never go that way again."

Mr. BRADEMAS. And here we are.

Dr. MARLAND. And here we are. We are forced by circumstances to do our work. I expect not a dime will be spent on anything new on this program until the Council that you and I want to see in place is in place.

I will recall again to quote from page 203 of the committee report.

> To insure continuity of programs previously operated by the Office of Education, we expect the Director of NIE during fiscal 1973 to be responsible for providing direction and leadership to these programs and projects.

That is in the language of the conference, Mr. Chairman, and we lean heavily on that language in our attorney's advice that we are on thin ice, but ice that permits us to stand and proceed for a limited time.

Mr. BRADEMAS. Well, I think if you go over in a corner after this is all over and talk with Dr. Glennan, unless I misunderstood what he has told me, you will find he has already approved some proposals that are new.

We have a Federal initiated research program which so far as I know has not been operated before.

Dr. MARLAND. Announcements have been made attempting to get running time so when the Council is in place we won't have to start from a dead halt.

Mr. BRADEMAS. We are making a curious distinction, as I hear you, between policy judgments and the awarding of moneys.

Dr. MARLAND. The policy judgments will govern the awarding of money and the Council will be in place before those awards are made.

If they are incompatible with Council policy, they will not be funded.

Mr. BRADEMAS. Come now, Mr. Secretary. I have a hard time living with that kind of response. I am trying to be candid, and I know you have an awkward situation.

Dr. MARLAND. It is a very simple situation, Mr. Chairman.

Mr. BRADEMAS. What you are telling me is that it is perfectly all right for the Director, given the absence of a Council which is mandated to make policy, to go ahead and make policy.

I have the guidelines right here and they appear to have policy implications.

Dr. MARLAND. They were published on January 8 in the Federal Register, and they are not due for final review until some days from now on February 8 or 9, after 30 days have passed, and they will not be final until the Council has acted on them.

Mr. BRADEMAS. Well, I listen to you and I do not know if you expect me to take that seriously. It seems to me the emperor has no clothes.

The fact is that when guidelines of this nature are published in the Federal Register, even though they may not be final, that is making policy. Don't you understand that?

Dr. MARLAND. I understand that and I understand, for example, in making policy concerning labs and centers, that Dr. Glennan picked up a system that had been in place for some years.

Mr. BRADEMAS. That is correct.

Dr. MARLAND. And that the policies concerning the administration of labs and centers had already been started in motion before there was ever a NIE or a Council.

Mr. BRADEMAS. So?

Dr. MARLAND. And those policies are now being implemented by him.

Mr. BRADEMAS. Why should they be?

Dr. MARLAND. Because somebody has to do something while we are waiting for a Council.

Mr. BRADEMAS. Why?

Dr. MARLAND. Because we would probably have several thousand people suddenly thrown off of the projects that have been building for some years, and they would have to be dissipated in the universe of the unemployed.

Mr. BRADEMAS. Do you mean to tell me this is a private bill for the relief of workers on Federal projects or Federal supported contracts? President Nixon is not concerned about the fact that people are thrown out of work because he is suddenly cutting off hospital construction, water pollution control money, and library assistance.

I suggest to you, respectfully, that I would not go down that avenue to justify this situation.

Dr. MARLAND. I am concerned about employment, but I am more concerned about the work they are doing, important work that has been going on for some time.

Mr. BRADEMAS. I say it is important work, but what you say is not decisive in terms of the mandate of Congress. What is determining is what that National Council says. Your suggestion here is that because programs would otherwise have run out and have expired, the Director should then have gone ahead to fund those programs even absent a National Council.

It might well be that the Council would say there is not supposed to be a continuation of some of these programs. Maybe the Council would say they all should be phased out.

Dr. GLENNAN. Can I inject one small comment?

Mr. BRADEMAS. Yes, please.

Dr. GLENNAN. In one sense, a decision to allow these things to lapse precludes decisions on the part of the Council.

Mr. BRADEMAS. Even as your decisions to continue them may preclude certain decisions.

Dr. GLENNAN. What I tried to indicate was that we are trying to continue, such as career education, on a month-to-month basis until the Council can make decisions about long-term commitments.

If I let them lapse, it would be that I would be making policy the same way as I would if we continued them for a long time.

We have tried to stay as close as we can within the constraints that we are in, the very real ones you pointed out, and ones which are not the Congress', I think, to do what is sensible and consistent with the spirit of the law.

Mr. BRADEMAS. I understand what you are saying. What I suppose is really of greater concern is that whatever you decide now, absent a council, has policy-making implications.

The continuation of existing programs, then, is a very serious decision. That is a policy judgment on your part that you have made in the face of the absence of the National Council.

Now, you are clearly, Dr. Glennan, in doing that, in violation of the statutory mandate of Congress. You, yourself, agreed in an earlier colloquy that the Council is to make policy.

I would think you would have a hard time sleeping at night—and I do mean this personally. I am not impugning your personal integrity. But, I am saying this, Mr. Secretary, is a good example, it is an infamous example, of how HEW over the last several years simply does not obey the law if it does not agree with it.

Dr. MARLAND. How then, Mr. Chairman, and I hate to keep returning to what may be belaboring an issue unnecessarily, but how then would you counsel the Secretary of HEW and his subordinates to allow to follow this conference language which I read again.

> To insure the continuity of programs previously operated by the Office of Education, we expect the Director of NIE, Thomas Glennan, during Fiscal 73, to be responsible for providing direction and leadership to these programs.

Mr. BRADEMAS. But you have curiously but significantly omitted any illusion to the problem of discontinuing existing programs, haven't you, Mr. Secretary?

This is a subject I was just pursuing with Dr. Glennan. All you have done is look at one side of the coin. You have omitted the other side of the coin. Why? Well, I think you understand the concern.

I have here a telegram that has just been sent to President Nixon by the American Educational Research Association, from which I will quote:

> We urge you to do whatever is necessary as soon as possible to complete your appointment to the National Council of Educational Research. The National Institute needs strong independent guidance from men—

I here interject that they should have added women—

> who are knowledgeable researchers and educators before basic programs are launched.

I insert in the hearing record at this point, also another telegram which I recently received from the National Education Association:

> JOHN BRADEMAS,
> *Chairman Select Subcommittee on Education, House of Representatives, Washington, D.C.:*
>
> The National Education Association strongly supports subcommittee efforts insisting upon compliance with section 405(a)(1) and 405(d)(1) Public Law 92-318. The appointment of the National Council on Educational Research by the President, with the advice and consent of the Senate, is vital to the im-

plementation of the law creating the National Institute of Education. Further procrastination or delay in appointing the council must be viewed by the NEA as a dereliction of duty and deliberate defiance of [illegible] mandate.

S. J. McFARLAND,
Government Relations,
Washington, D.C.

Mr. BRADEMAS. I have obviously put my questions and point of view to you as clearly as I can.

Dr. MARLAND. We understand them well, Mr. Chairman.

Mr. BRADEMAS. I would hope that we might expect the same rapid response in respect to this matter that you were gracious enough to give us in October 1971. Maybe what we ought to do is have an anniversary party as we write these statutes and have you back once a year and hope you will decide to obey the law down there.

Does anyone else have questions?

Mr. LANDGREBE. Mr. Chairman, I would like to tell Dr. Marland and Dr. Glennan how much I appreciate your coming over here. I think you have conducted yourselves very well under the circumstances, and it is my observation that the wrong feet have been put to the fire here this morning.

You have been very patient and very kind and I appreciate your testimony.

Dr. MARLAND. Thank you Mr. Landgrebe.

Mr. BRADEMAS. Thank you very much Dr. Glennan and Mr. Secretary.

Mr. McElroy.

STATEMENT OF JAMES H. McELROY, EXECUTIVE DIRECTOR, NATIONAL COMMITTEE FOR EDUCATIONAL CHANGE

Mr. MCELROY. Good morning, Mr. Chairman and members of the committee.

Mr. BRADEMAS. Won't you go ahead, Mr. McElroy.

Mr. MCELROY. Mr. Chairman, the National Committee for Educational Change welcomes and appreciates this opportunity to appear before the Select Subcommittee on Education for this oversight hearing on the implementation of the provisions of the General Education Provisions Act creating the National Institute of Education.

In the interest of time, I will not read all of our testimony. I will, however, read over our position on the issue of the National Council and the Directors authority to operate without it.

Mr. Smith will then discuss the uniqueness of NIE's legislative mandate and how it contrasts to the former mandate for educational research.

In short, how NIE is supposed to be different from what went on before which you felt was not satisfactory. Mr. Guskin will then discuss the importance of clarity in NIE objectives and the needed relationship of specific NIE programs to NIE objectives as specified by the Congress and the President.

Before discussing the Institute, I would like to comment briefly on the National Committee for Educational Change. Our committee is a nonprofit organization which was incorporated in the District of Columbia and formed for the purpose of stimulating and facilitating educational innovation, reform and change.

The membership of the National Committee for Educational Change comes from a variety of educational settings, but has a common belief that education must cast off many of its traditional ways and become more responsive to an increasingly divergent consumer population.

One project which our committee has undertaken is to monitor the activities of the Institute. We intend to gather, analyze, and distribute information about the Institute in order to stimulate wide and informed involvement in its affairs.

We believe that the greater involvement the public has in the Institute, the greater the chances are for attaining the legislative goals of equal educational opportunity, and much needed educational reform.

It is in a constructive spirit that we have undertaken this project, Mr. Chairman, the National Committee for Educational Change wishes to join you in your expression of support for the Institute. We applauded and supported President Nixon's initiative in proposing the Institute and applauded the work of this committee on the authorizing legislation.

Now, that authority for the Institute is a reality, we share the concern of this subcommittee that the legislation be properly implemented.

We understand and sympathize with the difficulty of Mr. Glennan's task of getting NIE into operation. We expect and hope what we do will be an aid to Mr. Glennan and the National Council. But we share, Mr. Chairman, your concern with the progress that is being made in implementing the legislation primarily because the 15-member Council provided for in section 405(B)(1) of the act has not been appointed.

A reading of section 405 of the act has convinced us it was intended that the Council be something more than an advisory body that will on occasion meet to approve what has already been done by the Director.

Any doubt of our interpretation of section 405 is resolved by the legislative history of the act. The conference report accompanying S. 659 Education Amendments of 1972, 92d Congress, report No. 92–798 contains the following comment on page 203:

> The conference agreement adopted the Senate amendment which established a National Council on Education Research responsible for general policies related to the Institute's powers, duties and authorities. The conferees believe that both an independent Council with decision-making authority and a strong Directorship are needed to lead a vigorous Institute.

In addition, both the distinguished chairman of the House Committee on Education and Labor, Mr. Perkins, and the chairman of the Senate Education Subcommittee, Senator Pell, have stressed the governing and policymaking authority of the Council.

Chairman Perkins, in a letter dated September 19, 1972, to the Senate Committee on Labor and Public Welfare, commented upon the independence of the Institute from the Assistant Secretary of Education and said of section 405(d)(1) that:

> *The provision simply describes the administrative line of authority to be followed within the Department and does not relate to policy formulation.* To interpret the provision more broadly would thus be in direct conflict with the clear intent of the Conferees that general policy for the Institute be determined by the Council.

Senator Pell's statement on the floor of the Senate during consideration of the conference report on S. 659 is equally strong in setting forth the importance of the Council. He stated:

The National Institute of Education is also under the governance of the National Council on Educational Research, which is charged with the responsibility for setting general policy for the Institute.

Without the existence of a Council, it is difficult to imagine how the Institute can fulfill its legal responsibilities and raises, we believe, a legal question concerning the authority of the Director to act. We have raised this question in connection with recent items that the Director caused to be published in the Federal Register.

On January 8, 1973, the Director published in the Federal Register general regulations for the Institute and on January 29, 1973, published in the Federal Register a notice of "Educational Research Areas and Closing Dates." Where is the authority for the Director to act?

Section 405(b)(1) of the act provides that the Institute shall consist of a National Council on Educational Research, hereinafter referred to as the "Council," and a Director of the Institute hereinafter referred to as the "Director."

Pursuant to section 405(c)(1) and section 405(d)(1), respectively, the Council and the Director are to be appointed by the President, with the advice and consent of the Senate. Thomas K. Glennan, Jr. has, of course, been appointed Director.

Because of the mandatory language of section 405(b)(1), it is quite clear that, until both a Council and Director have been appointed, the Institute has not been "established" within the meaning of section 405(b)(1). If this be the case, then how, without a Council being appointed, can the policy set forth in section 405(a) be carried out? It is our opinion that it cannot be carried out legally without both a Council and a Director being named and performing their respective duties as outlined in the act.

The last sentence in section 405(b)(1) supports the above conclusion. It provides that the Institute "shall have only such authority as may be vested therein by this section." Since the authority of the Institute is dependent upon compliance with section 405(b)(1), lack of compliance with this section, which at the moment is a failure to appoint a Council, leaves the Institute without authority, including the authority to issue regulations.

The issuance of the proposed regulations, without a Council being appointed, raises another procedural question. Assuming for the sake of this question only, that an Institute can be established with only the appointment of the Director, does the Director have the authority to make policy determinations?

It is true that the Director can, pursuant to section 405(f)(1), issue rules and regulations for the Institute. However, this section provides administrative authority only and is not intended to give policymaking authority to the Director. Other sections of the act support this conclusion and make it clear that the Director derives power and authority from the Council and through the Institute. Section 405(d)(1) provides that the Director shall "perform such duties and exercise such powers and authorities, as the Council * * * may prescribe." Section 405(e)(1) authorizes the Director to, among other things, conduct educational research, but this authority is derived from and is "through the Institute."

The authority for making policy is vested in the Council. Section 405(c)(3)(A) provides that the Council "shall—establish general poli-

cies for, and review the conduct of, the Institute." The legislative history mentioned earlier supports the statutory language.

Policy decisions are made throughout the proposed regulations. The proposed regulations set forth, among other things, eligibility requirements, standards for grantees, and policies relating to Federal financial participation. NCEC is of the opinion that the Council must be involved in the decisionmaking process regarding these matters, and, therefore a Council must be appointed and functioning before regulations of this nature can legally be proposed.

NCEC's formal objection to the procedure followed by the Director is set forth in a letter dated February 2, 1973, addressed to the NIE management task force.

We can sympathize with the desire of the Director to begin the task of securing an equal education opportunity for all people in this country and to begin educational reform. However, before he proceeds, particularly in the areas just discussed, the Council must set the overall policies. It is our belief that the proposed regulations should be withdrawn, and that new regulations be issued only after a Council has been appointed and is setting the policy that goes into the regulations. Any other procedure, and certainly the procedure being followed today, presents serious legal questions.

Mr. BRADEMAS. I don't want to misrepresent your views, but I take you to be making a legal case for the point that I was trying to suggest in my questioning of Dr. Glennan and Secretary Marland?

Mr. MCELROY. Exactly, sir. Will Smith will now discuss the uniqueness of NIE's legislative mandate.

Mr. BRADEMAS. Mr. Smith.

Mr. SMITH. I would like to thank you, Mr. Chairman, for inviting us before this committee. I would like to speak directly to the mandate for equal educational opportunity and educational reform that has been given NIE.

The National Committee for Educational Changes concerned with NIE grows out of its interest in educational research as a tool for promoting and facilitating reform innovations and change for the purpose of equal educational opportunity and educational reform. NIE has a mandate for research in the areas of equal educational opportunity and educational reform that has not existed before.

Prior to NIE, the Office of Education under the Cooperative Research Act operated education R. & D. under the vague directive to:

> * * * enable the Office of Education more effectively to accomplish the purpose and to perform the duties for which it was originally established.

The purposes and duties for which the Office of Education was originally established in the 1800's were similarly general and unspecific:

> * * * to collect statistics and facts showing the condition and progress of education in the several states and territories and to diffuse such information respecting the organization and management of schools and school systems, and methods of teaching, as shall aid the people of the United States in the establishment and maintenance of efficient school systems, and otherwise promote the cause of education throughout the country.

In contrast, the legislative architects of NIE specified that:

> The National Institute of Education should have as its principal objectives the provision of equality of educational opportunity, the solution of problems of and the promotion of the reform and renewal of American Education at all levels and in all settings.

The activities of the Institute up to this point do not reflect the different focus, and the specific focus that I am speaking to is the clear emphasis on research to be done in the area of equal educational opportunity and educational reform.

Mr. BRADEMAS. Thank you, Mr. Smith.

Mr. Guskin.

Mr. GUSKIN. Mr. Chairman, thank you for inviting us to testify today. Our basic concern regarding the proposed research and development activities of the National Institute of Education as specified in the January 29, 1973, Federal Register and in other documents is that they do not clearly require that all research and development activities be directly related to the establishment of equal educational opportunity and/or reform of American education. As a result, a researcher who is the recipient of an NIE grant with the best of intentions could do an exciting, well-conceived research project which would have little or no relationship to equal educational opportunity or the reform of American education. And even if it did have such a relationship, it is not clear from the present planning how NIE or the researcher would determine that such a relationship exists.

Examples are the following statements from the "Activities Supported" and "Review Criteria" sections of the NIE Instructions for Submitting Proposals: Grants for Research in Education, January 15, 1973, which was sent to educational and other researchers interested in submitting proposals to NIE.

Activities Supported

NIE will consider proposas for research, development, and related activities, provided that the topic holds relevance for American education. Eligible studies include pre-experimental observations, historical and philosophical reviews, theory formulation, secondary analyses, empirical research on phenomena, and exploratory development. Exploratory development includes empirical identification of the need for a product, feasibility testing, and formulation of design specifications. (45 C.F.R. Sesc. 1403.1, 1403.2b); (Field Initiated Studies General Notice).

Review Criteria

The review criteria against which proposals will be evaluated are:

1. The quality of the proposed research in terms of scope, design, instrumentation if appropriate, and methodology.
2. The significance of the proposed research for American education.
3. The qualifications and record of prior research productivity of the principal investigator and other professional personnel.
4. The adequacy of the facilities available to the investigator to conduct the proposed study.
5. The reasonableness of the budget in terms of the work to be accomplished and of the anticipated results. (45 C.F.R. Sec. 1403.10).

This means that NIE may allocate a great deal of its limited resources to projects that have little or no relationship to its legislative mandate for equal educational opportunity.

Researchers need better guidelines to write proposals and carry out research consistent with the legislative objectives.

NIE staff need better guidelines to properly assess the worthiness of research proposals and the meaningfulness of the results of completed studies.

Concerned consumers of education and educational research (that is, community members, educational practitioners and others) need to have clearer ideas about how to relate the results of NIE-funded projects to their own attempts to better achieve equal educational

opportunity and the reform of American education in their community.

We suggest that NIE establish a hierarchy of objectives that will link equal educational opportunity and/or reform of American education to the planning efforts of its task forces. Linkages should then be made to the specific types of research and development activities and action projects that will bring the mandated equal opportunity and reform.

In effect, by not developing such analyses and planning frameworks, NIE has not indicated how its allocation of resources will enable it to reach its mandated objectives. And if this is not done, we seriously question whether NIE will ever achieve its legislative purposes.

Finally, because of the rather severe cutbacks by the administration in research and development funds in educational and social research areas, the discretionary funds of NIE become even more significant than might otherwise be the case. Numerous research and development specialists will be searching for funds to sustain themselves. As a result, many of the best minds in the country can be brought to NIE's efforts. It is a golden opportunity to achieve its legislated objectives. But its objectives and the paths toward reaching these objectives must be clear. If not, hungry researchers, even if well intentioned, may dissipate the NIE resources while failing to achieve anything but the same old research reports.

Mr. BRADEMAS. I think that is a very helpful comment.

Mr. McElroy?

Mr. MCELROY. After we submitted the prepared testimony to you for this hearing, it came to our attention that the Office of Management and Budget is also becoming involved in policymaking for the Institute. In the budget and through the appropriations process, OMB seems to be making policy for the Institute. OMB, of course, was not given policymaking authority over the Institute in the General Education Provisions Act.

The fiscal year 1974 budget sets forth that the Office of Economic Opportunity research and development projects, including staff, will be transferred to other agencies including the Institute. At page 106 of the Appendix to the Budget the following statement appears:

> The 1974 [budget] request for the National Institute o. Education includes $23.9 million to continue the educational voucher demonstration and other projects designed to test ways to provide equal educational opportunities.

Additionally, this year's OMB allowance letter to the Department of Health, Education, and Welfare regarding the Education Division, requires the transfer of certain programs from the Office of Education to the Institute.

Presently it is not our intention to quarrel with the substance of these transfers, but we do object to the process.

Mr. BRADEMAS. I think, Mr. McElroy, that the point you have just made is the one that I was trying to get across to Dr. Glennan and Dr. Marland.

Perhaps reasonable people, perhaps the Council to be named sometime in the future will think things over and agree upon precisely the decisions that Dr. Glennan has already, in effect, unilaterally taken.

Perhaps Secretary Marland was correct in saying that from a policy viewpoint, from a substantive policy viewpoint, it is a good thing to continue some programs and to stop other ones.

That is not the question that I raise nor do I understand that to be the question that you raise. What we are talking about here is the integrity of the decisionmaking process and we are making the point, I believe you are and I am, that it is important if we are going to develop a sound base and a base of confidence in Federal support of education research, that we obey the law that Congress passed.

This has been a recurrent problem in this committee—just getting the administration to obey the law. That is all I really have in mind and let the chips fall where they may. I take it that we are saying the same thing.

Mr. McElroy. Yes, sir. There is one additional thing that I would like to emphasize since we have not had a great deal of time and that is, the lack of attention to the purposes of the Institute in the period extending from the President's message in 1970 in which he explicitly said that the purpose of the Institute was to bring equal educational opportunity up to the present. HEW has ignored this emphasis in six NIE planning reports we have reviewed.

There seems to be a lack of understanding that the purpose of the Institute is to bring equal educational opportunity and reform and I think it is very unfortunate that the Institute is going down a road not concentrating on its objectives which are to bring that equal opportunity and reform but on the method which is research.

All their publications emphasize the research and appear to ignore, as you Chairman Brademas brought out earlier. They ignore their purposes.

Mr. Brademas. I have just one question, Mr. McElroy. That is about the injunction to which you referred in your testimony. Do you want to say something about that?

Mr. McElroy. Well, sir, it seems to us that the Institute is acting improperly, and we are considering the possibility of seeking to enjoin them from acting more without proper legislative authority for their action.

We have not yet made a final decision on that. I would like to end by restating what I said in the beginning. It is in a constructive spirit that we have undertaken this project of monitoring NIE.

We applauded and supported President Nixon's initiative in proposing the Institute and applauded the outstanding work of this subcommittee on the authorizing legislation. And, we intend and hope we are an aid and help to Mr. Glennan in pursuing the Institute's very important purposes.

Thank you, sir.

We would be happy to answer any questions.

Mr. Brademas. Mr. Peyser?

Mr. Peyser. I will be very brief because time is short. I would like to suggest to you that hopefully your conversation of an injunction does not go any further than that. Second, in regard to the arguments that are being made that NIE is acting without proper authority, I am not an attorney and so I am not prepared to give any decision as to whether they are or whether they are not.

I certainly agree that they are probably stretching authority a little but this would not be the first time it has happened either in Congress or in agencies of the Government.

I am suggesting that what NIE is doing today in the light of very difficult circumstances is to continue as best they can an ongoing program. I support this. You are raising a question of equal opportunity but I don't think that at this time NIE can answer this question until they have a Council appointed to handle this situation.

I would agree 100 percent that they should be answering this question when the Council is appointed. I certainly, for whatever it may be worth, lend my voice to having such a Council appointed at the earliest possible date. I think anything short of that today, in attacking NIE and its program, would be not constructive but I feel would be destructive. I also believe that the educational community—and I have talked to a number of people in the last 2 or 3 days on this—would not support this stand of stopping or bringing NIE to a halt until such time as a Council was appointed.

I just mention that to you because we are all concerned with education and I know you are. What we are emphasizing perhaps is a need for the Council as the law provides. We have made the point and the chairman has certainly stated it once or twice this morning, and I agree with that. I know of no argument.

But I would not want to in any way ally myself with a situation that would bring NIE to a halt, because I think, if you did have it happen, you would find Congress reacting very quickly among many people who are opposed to NIE and saying, "Let's end the program, period; forget it; Council or no Council, they can't operate, and there is all of this going on and let's end it." And that, I think, would be a great disservice.

That is all I really have, and I welcome any countercomment you may have on it.

Mr. GUSKIN. I appreciate that. The major thing I want to say is that there will probably not be a strong movement toward equal educational opportunity until there is a Council. We are not particularly interested in the injunction but how do you encourage it to move?

Mr. PEYSER. I think the encouragement is there and the message is there, and I think we are going to have a Council.

Mr. MCELROY. There is another question that is related to what we ultimately do, and that is, the longer we go along without a Council, the more NIE, in fact, operates and starts setting policies, the more difficult it is for the Council to change or redirect that activity, and that is a very serious concern of ours. To what extent does this delay make it impossible for the Council to ultimately be effective when it is appointed; that is what we are wrestling with.

Mr. BRADEMAS. Mr. Sarasin.

Mr. SARASIN. Mr. McElroy, the morning's testimony has given us several allusions to an injunction and the chairman's question to you about the possibility of an injunction. As I read your statement, I don't see any reference to an injunction.

Mr. MCELROY. No, sir; there is no reference to an injunction in the statement, but I had mentioned that as a conceivable possibility in talking with the staff of the committee at one point when I was very upset at the issuance of that notice. I was very upset to see that and I immediately, the same afternoon, went to the subcommittee staff and

asked, "Is what they are doing consistent with legislative intent." The staff people were reluctant to even comment to me, but I told them that we are considering the possibility of an injunction because it seems to us, in our reading of the law, that NIE's Director is acting illegally.

Mr. GUSKIN. The reason for the hedging of our position is that, if no action is taken and a Council is not formed, we are starting a case for an injunction. That is not our interest, however. Our interest is to get on with the business of equal educational opportunity. We don't have any confidence that educational research by itself is going to achieve any objective unless it is specifically stated in the actual proposals that go out. You can have a lot of research, but the question is getting research to do the job.

Mr. PEYSER. You may find those problems even when the Council is appointed.

Mr. BRADEMAS. Mr. Sarasin, you are quite right in correcting me. I incorrectly phrased my question when I suggested that Mr. McElroy had alluded to a possibility of an injunction in his statement. It was, rather, in conversation with the subcommittee staff that that matter came to my attention. I appreciate your correcting me in that respect.

Mr. SARASIN. I have no further questions. Thank you, Mr. Chairman.

Mr. BRADEMAS. Mr. McElroy, Mr. Guskin, and Mr. Smith, thank you very much. You have been most helpful with your testimony, and we appreciate your coming.

The subcommittee is adjourned.

(Whereupon, at 12:15 p.m. the subcommittee adjourned.)

(The following material was submitted for the record:)

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
OFFICE OF THE ASSISTANT SECRETARY FOR EDUCATION,
Washington, D.C.

HON. JOHN BRADEMAS,
Chairman, Select Subcommittee on Education, Committee on Education and Labor, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: During my testimony last Tuesday before your Subcommittee you expressed concern over the 99 positions for the Office of the Assistant Secretary for Education identified in the Budget. I responded that the figure probably included the positions for the Fund for the Improvement of Post-Secondary Education but we agreed that the members still did not appear to add. You asked for clarification on this matter.

Position listings for the Office of the Assistant Secretary appears in two places in the Budget document, pages 424–425 and 1020. I have attached copies of these pages for your reference. On page 1020 the totals are correct: Sixty-six positions in FY 1973 and 85 positions in FY 1974. Of these, 11 are included for the Fund in FY 1973 and 30 in FY 1974.

Although the text on pages 424–425 is accurate, the table on page 425 is incorrect. On line four of the table, "Employees in permanent positions, end of year," the FY 1974 estimates should read 85 instead of 99. I do not know where or how the error occurred but it is definitely a mistake and will be corrected in future submissions. I do know that the number 99 was not submitted by the Education Division. As I explained in my remarks, we have been very careful to respond to the clear Congressional intent regarding staffing.

I hope that this satisfies your concerns on this point.

Sincerely,

S. P. MARLAND, JR.,
Assistant Secretary for Education.

Enclosure.

EDUCATION DIVISION, OFFICE OF THE ASSISTANT SECRETARY FOR EDUCATION

Federal Funds—General and Special Fund.

SALARIES AND EXPENSES, ASSISTANT SECRETARY FOR EDUCATION

For necessary expenses to carry out section 402 of the General Education Provisions Act, *and not to exceed $1,500 for official reception and representation expenses,* [$1,495,000] *$1,852,000. (Supplemental Appropriations Act, 1973.)*

PROGRAM AND FINANCING

[In thousands of dollars]

	1972 actual	1973 estimate	1974 estimate
Program by activities: Direction and supervision		1,495	1,852
Financing: Budget authority (appropriation)		1,495	1,852
Relation of obligations to outlays:			
Obligations incurred, net		1,495	1,852
Obligated balance, start of year			150
Obligated balance, end of year		−150	−186
Outlays		1,345	1,816

Note: Includes $1,456,000 in 1974 and $1,416,000 in 1973 for activities previously financed from salaries and expenses 1972, $350,000.

The Assistant Secretary for Education is responsible for direction and supervision of the Education Division, provides leadership for the education activities of the Department, and serves as the key spokesman and advocate for assuring that the Department provides professional and financial assistance to strengthen education in accordance with Federal laws and regulations. In addition, he serves as the principal advisor to the Secretary on education affairs. This appropriation provides for the administrative expenses associated with the Office of the Assistant Secretary for Education. The estimate includes support of 11 positions in 1973 and 30 positions in 1974 for administration of the postsecondary innovation program, whose Director reports directly to the Assistant Secretary for Education.

OBJECT CLASSIFICATION (IN THOUSANDS OF DOLLARS)

	1972 actual	1973 estimated	1974 estimated
Personnel compensation:			
Permanent positions		1,027	1,267
Positions other than permanent		73	80
Other personnel compensation		11	11
Total personnel compensation		1,111	1,358
Personnel benefits: Civilian		84	104
Travel and transportation of persons		74	94
Transportation of things		2	3
Rent, communications, and utilities		75	89
Printing and reproduction		15	28
Other services		118	146
Supplies and materials		10	13
Equipment		6	17
Total obligations		1,495	1,852

Personnel Summary

Total number of permanent positions		66	85
Full-time equivalent of other positions		5	6
Average paid employment		64	88
Employees in permanent positions, end of year		66	99
Average GS grade		12.1	11.3
Average GS salary		$20,049	$17,585
Average salary of ungraded positions		$37,000	$37,000

POSTSECONDARY INNOVATION

For carrying out, to the extent not otherwise provided, section 404 of the General Education Provisions Act, $15,000,000.

PROGRAM AND FINANCING

[In thousands of dollars]

	1972 actual	1973 estimate	1974 estimate
Program by activities: Grants for postsecondary education innovation (object class 41.0)			15,000
Financing: Budget authority (appropriation)			15,000
Relation of obligations to outlays:			
Obligations incurred, net			15,000
Obligated balance, end of year			−15,000
Outlays			

Note: In 1973, the higher education appropriation provided $10,000,000 for these activities.

The Education Amendments of 1972 authorized the Secretary of Health, Education, and Welfare to make grants to and contracts with institutions of postsecondary education and other public and private educational institutions and agencies to encourage reform and innovation at the postsecondary level. Authority for administration of this program has been delegated to the Assistant Secretary for Education.

EDUCATION DIVISION—SALARIES AND EXPENSES, OFFICE OF ASSISTANT SECRETARY FOR EDUCATION

	1972 actual	1973 estimate	1974 estimate
Grades and ranges:			
Executive level IV, $38,000		1	1
Executive level V, $36,000		1	1
GS-18, $36,000		2	2
GS-17, $34,335 to $36,000		2	2
GS-16, $29,678 to $36,000		4	7
GS-15, $25,583 to $33,260		7	8
GS-14, $21,960 to $28,548		8	9
GS-13, $18,737 to $24,362		9	10
GS-12, $15,886 to $20,627		8	8
GS-11, $13,369 to $17,305		4	5
GS-10, $12,151 to $15,796		1	1
GS-9, $11,046 to $14,358		7	10
GS-8, $10,013 to $13,019		2	2
GS-7, $9,053 to $11,771		8	10
GS-6, $8,153 to $10,601			2
GS-5, $7,319 to $9,515		2	4
GS-4, $6,544 to $8,506			2
GS-3, $5,828 to $7,574			1
Total permanent positions		66	85
Unfilled positions, June 30			
Total permanent employment, end of year		66	85
Higher level positions:			
Executive level IV, $38,000: Assistant secretary for education		1	1
Executive level V, $36,000: Deputy assistant secretary, education		1	1
GS-18, $36,000: Deputy assistant secretary		2	2
GS-17, $34,335 to $36,000: Director		2	2
GS-16, $29,678 to $36,000:			
Director		1	3
Deputy director		1	2
Deputy to the deputy assistant secretary		2	2

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
OFFICE OF THE ASSISTANT SECRETARY FOR EDUCATION,
Washington, D.C., February 23, 1973.

Hon. JOHN BRADEMAS,
House of Representatives,
Washington, D.C.

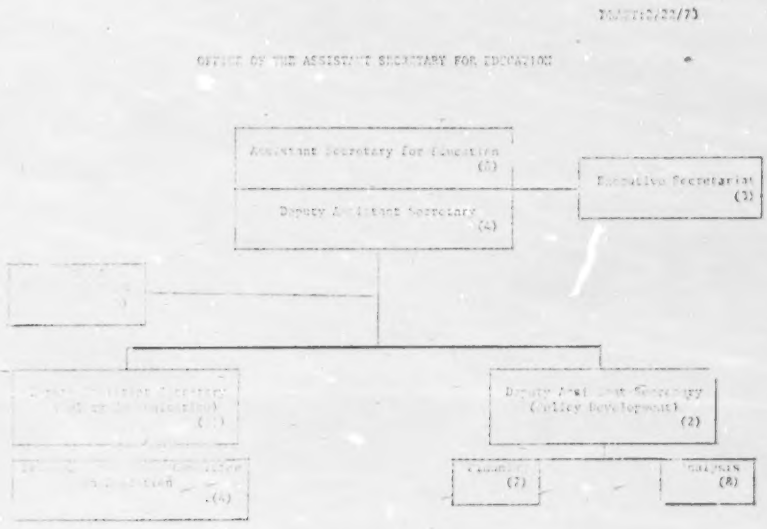
DEAR MR. BRADEMAS: At the Select Subcommittee on Education hearing of February 6, you requested a breakdown of the staffing for the Office of the Assistant Secretary for Education. I mentioned during my testimony, that these are tentative assignments but I expect the final distribution to follow the attached draft quite closely. I have also provided some brief descriptive material to indicate the kinds of activities in which I expect my staff to engage.

I would appreciate it if you would have the attached materials inserted at the appropriate place in the hearing record. Thank you.

Sincerely,

S. P. MARLAND, Jr.,
Assistant Secretary for Education.

Enclosures.



ORGANIZATION OF THE OFFICE OF THE ASSISTANT SECRETARY FOR EDUCATION

The following is a functional breakout of the 55 positions authorized for the Office of the Assistant Secretary for Education. Of these, approximately 32 are professional positions with the remaining 23 clerical and support staff.

1. Immediate Office of the Assistant Secretary—Eleven persons including those necessary to provide clerical and staff support, travel coordination and Executive Secretariat services.

2. Office of the Deputy Assistant Secretary—Four persons including clerical and support staff.

3. Office of Administration—Eight persons for necessary administration and management activities.

4. Office of the Deputy Assistant Secretary (Policy Development)—Seventeen persons including support staff for policy analysis and planning activities.

5. Office of the Deputy Assistant Secretary (Policy Communication)—Fifteen persons to staff the Federal Interagency Committee on Education, provide organization liaison, and support the activities associated with public appearances.

Materials concerning the nomination of Sidney P. Marland, Jr. (pgs.50-59) are covered in the preceding section.

[Press release, Mar. 24, 1973]

THE WHITE HOUSE

The President today announced his intention to nominate 15 persons to be members of the National Council on Educational Research for the terms indicated.

For a term of one year

Dr. James S. Coleman, of Baltimore, Maryland; Professor of Social Relations, Johns Hopkins University, Baltimore, Maryland.

Vincent J. McCoola, of Camp Hill, Pennsylvania; Director, Office of Aid to Nonpublic Education, State Department of Education, Harrisburg, Pennsylvania.

Vera M. Martinez, of Albany, California; Student, Graduate School of Public Policy, University of California at Berkley, Berkley, California.

Carl H. Pforzheimer, Jr., of Purchase, New York; Senior Partner, Carl H. Pforzheimer and Company, and President, Carl and Lily Pforzheimer Foundation, Inc., New York, New York.

Dr. Wilson Riles, of Sacramento, California; State Superintendent of Public Instruction, Sacramento, California.

For a term of two years

Dr. William O. Baker, of Morristown, New Jersey; President, Bell Telephone Laboratories, Murray Hill, New Jersey.

Dr. T. H. Bell, of Salt Lake City, Utah; Superintendent Granite School District, Salt Lake City, Utah.

Dr. Dominic J. Guzzetta, of Akron, Ohio; President, University of Akron, Akron, Ohio.

Dr. Charles A. LeMaistre, of Austin, Texas; Chancellor, University of Texas System, Austin, Texas.

W. Allen Wallis, of Rochester, New York; Chancellor, University of Rochester, Rochester, New York.

For a term of three years

Ralph M. Besse, of Shaker Heights, Ohio; Attorney, Squire, Sanders and Dempsey, Cleveland, Ohio.

Dr. John E. Corbally, Jr., of Urbana, Illinois, President, University of Illinois, Urbana, Illinois.

Patrick E. Haggerty, of Dallas, Texas; Chairman of the Board, Texas Instruments, Inc., Dallas, Texas.

Mrs. Ruth Hurd Minor, of Roselle, New Jersey; Principal, Locust Street School, Roselle, New Jersey.

Dr. John C. Weaver, of Madison, Wisconsin; President, University of Wisconsin, Madison, Wisconsin.

The President also announced his intention to designate Mr. Haggerty as Chairman of the Council upon his confirmation by the Senate. Upon the expiration of the initial, staggered one and two-year terms, members are to serve terms of three years. The Director of the National Institute of Education serves as an ex officio member of the Council.

The National Council on Educational Research was established by the Education Amendments of 1972 (PL 92-318), which also established the National Institute of Education in the Department of Health, Education and Welfare. The purpose of the Council is to establish policies for the Institute and advise the Assistant Secretary for Education and the Director of the NIE on development of the Institute's programs. The Council is to report annually to the President and the Congress.

O

GPO 875-166